

HOUSE OF REPRESENTATIVES.

TUESDAY, May 20, 1902.

The House met at 12 o'clock m. Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of yesterday's proceedings was read and approved.

OMNIBUS CLAIMS BILL.

Mr. MAHON. Mr. Speaker, I desire to call up the conference report on the bill H. R. 8587, for the allowance of certain claims for stores and supplies, reported by the Court of Claims under the provisions of the act approved March 3, 1883, and commonly known as the Bowman Act. And I ask unanimous consent that the reading of the report be omitted and that the statement be read.

Mr. RICHARDSON of Tennessee. If the report is not long I would like to have it read.

The SPEAKER. The gentleman from Tennessee demands that both be read. The Clerk will read.

The Clerk read the conference report, which will be found in the Senate proceedings of May 19, on page 6053 of the RECORD.

The Clerk read the statement, as follows:

Statement to accompany conference report on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 8587) for the allowance of certain claims for stores and supplies reported by the Court of Claims under the provisions of the act approved March 3, 1883, and commonly known as the Bowman Act.

The bill as it passed the House provided for the payment of claims recommended by the Court of Claims under the terms of the Bowman Act, and carried an appropriation of \$218,105.67.

The Senate amended the title by adding at the end of same the words "and for other purposes" (amendment numbered 2) and struck out all after the enacting clause (amendment numbered 1), and inserted in lieu thereof certain claims certified from the Court of Claims under the provisions of the Bowman and Tucker acts.

The bill as it passed the Senate contained:

Bowman and Tucker act claims amounting to.....	\$502,759.10
French spoliation claims.....	799,675.88
Selfridge board claims.....	1,072,424.39
Churches and colleges.....	62,974.96
State claims.....	472,241.98
Miscellaneous claims.....	232,281.29

Total direct appropriation..... 3,142,357.60

The Selfridge board claims were stricken from the bill in conference.

The claims of the States of California and Oregon were stricken from the bill in conference for the reason that these claims were referred to the Treasury Department for investigation and settlement by a provision in an urgent deficiency bill approved February 14, 1902. The claim of the State of Nevada was stricken from the bill and a clause inserted in lieu thereof sending the claim to the Treasury Department for investigation and settlement, as in the cases of California, Oregon, and other States.

The bill as agreed to in conference carries a direct appropriation of \$1,618,498.86. The Senate receded from \$1,553,172.74.

The Senate struck out of the bill as it passed the House seven claims. Three have been restored to the bill.

The SPEAKER. The question is on agreeing to the conference report.

The report was agreed to.

On motion of Mr. MAHON, a motion to reconsider the vote by which the report was agreed to was laid on the table.

URGENT DEFICIENCY BILL.

Mr. CANNON. By direction of the Committee on Appropriations, I report the urgent deficiency bill which I send to the desk. I ask that it be read, and request unanimous consent for its immediate consideration in the House.

The bill was read, as follows:

A bill (H. R. 14589) making appropriations to supply additional urgent deficiencies in the appropriations for the fiscal year ending June 30, 1902.

Be it enacted, etc., That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to supply deficiencies in certain appropriations for the fiscal year 1902, namely:

DEPARTMENT OF JUSTICE.

United States courts: For fees of jurors, \$25,000.

For payment of such miscellaneous expenses as may be authorized by the Attorney-General for the United States courts and their offices, including the arranging and collecting of evidence where the United States is or may be a party in interest, and removing of records, \$35,000.

CIVIL SERVICE COMMISSION.

For necessary traveling expenses, including those of examiners acting under the direction of the Civil Service Commission, and for expenses of examinations and investigations held elsewhere than at Washington, \$1,000.

HOUSE OF REPRESENTATIVES.

For miscellaneous items and expenses of special and select committees, \$20,000.

The SPEAKER. Is there objection to the present consideration of this bill?

Mr. RICHARDSON of Tennessee. Reserving the right to object, I should like to ask the gentleman—repeating the question which I put to him last week—whether we are to have a deficiency bill every week of this session? I suppose that we may safely assume that if this thing is to be kept up we shall have no general deficiency bill, but that all the deficiencies are to be taken care of in these urgent bills.

Mr. CANNON. Mr. Chairman, in reply to the question of the gentleman I will say we passed an urgent deficiency bill—

Mr. RICHARDSON of Tennessee. Will the gentleman tell us how many of these bills have been passed in this Congress?

Mr. CANNON. In a moment. We passed an urgent deficiency bill in January, which carried, in round numbers, \$20,000,000. It was supposed at the time that that would be the principal deficiency bill, apart from the general deficiency bill, the intention being, later on, just at the close of the fiscal year, to bring in the ordinary general deficiency bill.

Now, at the time the first bill of this character was passed, we supposed we had included what was necessary; but from time to time, from the House and from the Senate, on account of contingent expenses, and from the several departments, on account of printing and other expenses absolutely necessary, if the business of the country was to continue, we have been notified of urgent items, and we have appropriated for them. In this case it will be necessary for the courts of the United States to shut up if we do not give the \$25,000 here proposed to be appropriated for juries.

Mr. RICHARDSON of Tennessee. May I ask the gentleman why was not that put in the regulation appropriation bill? Why is it necessary that we should have these repeated urgent deficiency bills? We had an urgent deficiency bill in the beginning of this session—

Mr. CANNON. Yes.

Mr. RICHARDSON of Tennessee. We had another urgent deficiency bill—No. 2—which came here about the 3d of April.

Mr. CANNON. Yes.

Mr. RICHARDSON of Tennessee. Then, later, we had an urgent deficiency bill No. 3; and now comes urgent deficiency bill No. 4.

Mr. CANNON. Yes.

Mr. RICHARDSON of Tennessee. Now, how many more of these bills are we to have? And let me ask the gentleman why it was not possible to provide for these appropriations at the regular time?

Mr. CANNON. I trust that we shall have but one more bill of this character. It is possible, however, that before the general deficiency bill is reported some item may come up that may render it necessary for carrying on the public service that something like this be provided for.

Mr. RICHARDSON of Tennessee. One more question, if the gentleman will permit me. Has he, in all his experience, ever known so many urgent deficiency bills as we have had presented to us at this session—at one session of Congress?

Mr. CANNON. Oh, this is not at all out of the ordinary course.

Mr. RICHARDSON of Tennessee. Does the gentleman think we have ever had urgent deficiency bill No. 4 by the 20th of May in a regular session of Congress?

Mr. CANNON. Yes, sir. [After a pause.] After verifying my recollection, yes.

Mr. RICHARDSON of Tennessee. Well, I have very great faith in the source from which the gentleman "refreshed his recollection." [Laughter.]

There being no objection, the House proceeded to the consideration of the bill; which was ordered to be engrossed and read a third time; and it was accordingly read the third time, and passed.

On motion of Mr. CANNON, a motion to reconsider the vote by which the bill was passed was laid on the table.

ARMY APPROPRIATION BILL.

Mr. HULL. Mr. Speaker, I am directed by the Committee on Military Affairs to report back the bill (H. R. 12804) making appropriations for the support of the Army, with Senate amendments, with the recommendation that the amendments all be disagreed to, and asking for a conference.

The SPEAKER. The gentleman from Iowa, chairman of the Committee on Military Affairs, by direction of his committee, reports back the military appropriation bill, being directed by that committee to ask disagreement to all the Senate amendments, asking for a conference. Is there objection?

Mr. RICHARDSON of Tennessee. Mr. Speaker, I do not see on this side any members of that committee present.

Mr. HAY. Mr. Speaker, I will state to the gentleman that it is simply to nonconcur in the Senate amendments.

Mr. RICHARDSON of Tennessee. It is to nonconcur in all the amendments?

Mr. HAY. Yes.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none, and it is so ordered; and the Chair announces the following conferees on the part of the House—

Mr. CANNON. Mr. Speaker, pending that I offer the following resolution.

The SPEAKER. In this connection the gentleman from Illinois offers the following resolution, which the Clerk will report. The Clerk read as follows:

Whereas Senate amendments numbered 13, 14, and 15 to the bill (H. R. 12804) making appropriations for the support of the Army for the fiscal year 1903, makes the proposed appropriation of \$4,000,000 for barracks and quarters available for the construction of such permanent buildings at established military posts as the Secretary of War may deem necessary, and reappropriates from unexpended balances of former appropriations for barracks and quarters \$350,000 for construction of necessary garrison buildings, notwithstanding appropriations for said objects are made, in accordance with the rules and practice of the House, in the sundry civil appropriation bill for said year; and

Whereas said amendments are subversive of the rules of the House, duplicate appropriations, and tend to confusion in the methods of making appropriations for the support of the Government, and will, if agreed to, give rise to a practice that will inevitably result in extravagant and wasteful expenditures: Therefore,

Resolved, That the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill H. R. 12804 are instructed not to recommend an agreement to said amendments numbered 13, 14, and 15, or to any modification thereof that will, under authority of said Army appropriation act, permit the expenditure of any sum for construction of permanent buildings at established military posts, except as authorized by section 1136 of the Revised Statutes.

Mr. CANNON rose.

The SPEAKER. Does the gentleman from Iowa yield to the gentleman from Illinois?

Mr. HULL. If the gentleman wishes to discuss his resolution, yes; but I shall oppose his instructions, Mr. Speaker. Does the gentleman desire to say anything?

Mr. CANNON. Yes.

Mr. HULL. How much time does the gentleman want?

Mr. CANNON. Well, I can not tell. I do not want any undue time, but I want time enough to put the House in possession of the resolution which I want to ask it to adopt.

Mr. HULL. Well, we have an hour. How much does the gentleman think he ought to have?

Mr. CANNON. I do not think I want but a few minutes.

Mr. HULL. Ten minutes?

Mr. CANNON. Possibly I can get through in ten minutes. I may, after I hear my friend, want ten minutes more. I do not know.

Mr. HULL. Very likely. Mr. Speaker, I yield ten minutes to the gentleman from Illinois.

The SPEAKER. The gentleman from Illinois is recognized for ten minutes on his resolution.

Mr. CANNON. Mr. Speaker, this is a matter of some importance touching the orderly procedure, jurisdiction of committees as to appropriations, and I desire very briefly the attention of the House while I speak to the resolution. There are certain things that I apprehend the gentleman from Iowa and myself will not disagree about. One is that the estimates for barracks and quarters, repairs of same, and construction of buildings, not to exceed \$20,000 in cost at existing posts, have always, under the rules of the House, been referred to and recommended by the Committee on Military Affairs; that the estimates for constructions, for buildings at and enlargement of military posts, in the discretion of the Secretary of War, have always been referred to the Committee on Appropriations and appropriated for on the sundry civil bill. I pause for a contradiction, if there is to be any disagreement as to the facts. Now, section 1136 of the Revised Statutes is as follows:

Permanent barracks or quarters and buildings and structures of a permanent nature shall not be constructed unless detailed estimates shall have been previously submitted to Congress and approved by a special appropriation for the same.

Except when constructed by troops.

Now, what are the facts? The Secretary of the Treasury, in transmitting the estimates for permanent improvements, barracks and quarters, and military posts, transmitted them to Congress and asked \$2,000,000. That was referred to the Committee on Appropriations. The sundry civil bill carried an appropriation of a million and a half as it passed the House. It went to the Senate. The Senate increased the amount by \$300,000, and the matter is now in conference. The Secretary of War forwarded his estimates for repairs, such as went to the Committee on Military Affairs—the usual estimate—and asked \$3,000,000. The House Committee on Military Affairs recommended the \$3,000,000. It passed the House and went to the Senate. Thus far the matter has proceeded under the rules of the House.

For temporary repairs and buildings under \$20,000 the Committee on Military Affairs recommended the whole amount. For the permanent improvements the Committee on Appropriations recommended \$500,000 less than was estimated for, which was amended by the Senate, as I have indicated, increasing it \$300,000.

The procedure up to this point was known, and was along the line of the rules of the House and the practice that has existed for a generation. Now, the Army bill was taken up in the Senate,

and they offer the following amendment, and pass it, and send it to the House. Listen. As it passed the House it was as follows:

Barracks and quarters: For barracks and quarters for troops, storehouses for the safe-keeping of military stores, for offices, recruiting stations, and for the hire of buildings and grounds for summer cantonments, and for temporary buildings at frontier stations, for the construction of temporary buildings and stables, and for repairing public buildings at established posts.

I have read the House provision. Now, the Senate struck out, in lines 15, 16, 17, and 18, the words:

Temporary buildings at frontier stations, for the construction of temporary buildings and stables, and for repairing public buildings at established posts.

And inserted the following words:

The construction and repair of such permanent or temporary buildings at established posts as the Secretary of War may deem necessary.

In other words, by that language they make it all that the Army bill usually carries, and make it for every purpose that the sundry civil bill under the rules of the House has heretofore always carried. Not content with that, they increase the appropriation by \$1,350,000. Now, mind you, the estimate upon which this bill passed the House was \$3,000,000. The House gave \$3,000,000, and that was all that was ever asked for by the Secretary of War. The Senate amendment accepts the \$3,000,000, enlarges the purpose for which it was appropriated, and recommends \$4,350,000, or \$1,350,000 that the Secretary of War and the Executive never estimated for.

Now, what have we? One great committee of this House recommending permanent improvements under the rules for a million and a half dollars. Another great committee of the House is asked under this amendment to make the Army bill appropriation precisely like the sundry civil bill appropriation. In other words, both bills treat the same subject-matter and appropriate for the same purpose against the rules of the House, duplicating appropriations and increasing the amount \$1,350,000 more than the Executive has estimated for.

Mr. RICHARDSON of Tennessee. Mr. Speaker, if the gentleman will yield, has there been any precedent for such practices as that heretofore?

Mr. CANNON. No; it is without precedent.

Mr. RICHARDSON of Tennessee. How does it happen at this time that this precedent is attempted to be established?

Mr. CANNON. Speaking respectfully of another body, it is perfectly patent at this session of Congress, and for many sessions of Congress, in my judgment, that this House, coming from the people, in close touch with the people, in nine cases out of ten has to be the conservative body and to protect the Treasury.

Mr. RICHARDSON of Tennessee. How much is added to the bill without proper estimates?

Mr. CANNON. One million three hundred and fifty thousand dollars.

Mr. RICHARDSON of Tennessee. That is not done in this body, as I understand.

Mr. CANNON. Oh, no; I am trying to keep it from being done in this body.

Mr. RICHARDSON of Tennessee. I understand.

Mr. CANNON. By expressing the sense of this House that it ought not to be done.

Mr. RICHARDSON of Tennessee. Now, is it too late for a point of order to accomplish that purpose?

Mr. CANNON. A point of order, I will say to my friend, would not be effective at this stage, because this is a Senate amendment, and would not go out upon a point of order.

Mr. RICHARDSON of Tennessee. I recognize that fact, and having great confidence and faith in the ability of the gentleman, will he tell us how we can avail ourselves of an opportunity to correct this error?

Mr. CANNON. I know of no way but for the House in good temper, but with great firmness, to express its opinion by this instruction to the conferees who represent the House, that the law is not to be changed.

Mr. RICHARDSON of Tennessee. Now, one other question. Does the gentleman anticipate that our conferees will object to such instruction?

Mr. HULL. Yes. He has a right to.

Mr. CANNON. Well, the gentleman in charge of the bill says "Yes;" and, reading between the lines, I am satisfied that the Committee on Military Affairs ought to be informed by a majority vote of this House that this practice will not be permitted. I speak in perfectly cool temper about the matter. And having said that much, I will yield the floor.

Mr. SNODGRASS rose.

Mr. CANNON. Does the gentleman want to ask me a question?

Mr. SNODGRASS. Yes. The Committee on Military Affairs having disagreed to the Senate amendment, does not the gentleman think that they can be trusted as conferees by this House without passing a resolution of this nature, practically suggesting in advance they are not to be trusted?

Mr. CANNON. This is the orderly procedure of the House. It is perfectly parliamentary. It is quite customary in this and former Congresses to take this course. In my judgment, the Committee on Military Affairs by its own motion ought to have invited this action. But I think it is proper for me to say that the chairman of the committee, in talking with him, informed me that his committee had instructed him to resist a motion of this kind. Well, now, here is the issue, and the House will have it to settle.

Mr. SNODGRASS. Will the gentleman yield to another question?

Mr. CANNON. Certainly.

Mr. SNODGRASS. Does he not think it would have been ridiculous on the part of the conferees to come in here and ask the House to instruct them not to agree?

Mr. CANNON. Possibly so, and possibly not; but let me say to my friend that it is perfectly competent that where it is to be about a matter of difference, the manly way, in due courtesy and without feeling, is to settle the matter by calling the attention of the House to it and let the House determine it.

Mr. HULL. Mr. Speaker, I disagree with the gentleman from Illinois as to this being the ordinary way of going into conference. I think the ordinary way is for the conferees to be appointed, and for them to come before the House with their report, and not to have lectures read to the conferees in advance. The challenge of the gentleman from Illinois as to the action of the Senate requires no answer on my part, because it is a comparatively everyday occurrence for the Senate to put amendments on bills that the House can not put on, amendments contrary to the rules of the House; but it does seem to me his action and contention this morning is ill-timed and out of place. The Committee on Military Affairs took this matter up and considered it in the committee, and with a good many of the amendments we were willing to agree; the larger number of Senate amendments the committee was perfectly willing to agree to, but some of these amendments, including those mentioned by the gentleman from Illinois, we were not willing to agree to at that time.

Part of these amendments that he refers to the conference committee may bring in an agreement on; others they would disagree on. But the views of the committee were, in order to have a full and free conference, and that we might have something to go into the conference on, as all you gentlemen understand who have been on conference committees, to have some trading stock, to give and take on, we disagreed to all of them. Now, after this committee brings in a report, then the sentiment of the House would be tested; but it seems to me ill-timed for us in the House to pass resolutions upon matters that are referred to the conference committee. I can not believe that the gentleman from Illinois regarded it as so absolutely necessary for him at this time to bring in the resolution unless it was that he feared that we might disagree entirely, and thus deprive him of the opportunity to deliver a very fine speech on the floor of this House and lecture the members.

Mr. CANNON. If my friend will allow me just at this point. I would not have done it if my friend had not informed me that his committee was for this amendment.

Mr. HULL. No. I do not want the gentleman to misunderstand me, and I know he would not misstate what I said.

Mr. RICHARDSON of Tennessee. I do not want to interfere with the gentleman, but I understood the gentleman to say that a moment ago when I interrogated the gentleman from Illinois.

Mr. HULL. To a large part of this amendment the committee had by a direct vote said they would not agree to it; to other parts they did not so express themselves, and I could not speak for the committee, but the committee had instructed me to report the bill to the House, to disagree to all of them. Further than this, I may say for myself, I can go into the private conversation had with the gentleman from Illinois and submit it to the House if necessary.

Mr. CANNON. If my friend will allow me. Let us have no misunderstanding.

Mr. HULL. That is right.

Mr. CANNON. The three matters that I propose to ask the House to instruct on are the matters that are referred to. There are three matters in these amendments that I do not ask instructions on. Now, then, I will ask my friend right now if his committee is not in favor of this change of language?

Mr. HULL. I do not know.

Mr. CANNON. And if he himself is not in favor of this change of language?

Mr. HULL. So far as I am concerned, I stated in the committee room in talking to the gentleman that unless the language is changed there is no excuse for the additional amount being put in the bill. The limitation of \$20,000 was placed in the law, I think, first in 1859, and in the seventies amended.

The demands of the country were entirely different from what

they are to-day. There is no question, gentlemen of the House, but what the Committee on Military Affairs and the Committee on Appropriations have a little clash of jurisdiction on many matters. Take an instance. The rules of this House give the Committee on Military Affairs, absolute jurisdiction over every appropriation connected with the line of the Army, and yet there is constant friction as it applies to the artillery; and the rules of this House have been set aside by the Committee of the Whole House, where it provides specifically for jurisdiction for the Committee on Military Affairs, and has allowed the Committee on Appropriations to carry it. I do not deny that I believe it would be better if we were to remove the restriction of \$20,000, because of the changed conditions that have come in the last forty years in this country. But whether it is true or not, whether the committee of conference will agree to that or not, whether they will agree to any of these propositions or not, first have the committee make its report, and then let it be challenged in this House. It does seem to me that this resolution now is ill timed and out of place, and the time for this test to be made is after we have had one conference.

Mr. STEPHENS of Texas. Will the gentleman allow me a question?

Mr. HULL. Certainly.

Mr. STEPHENS of Texas. I would like to ask whether or not the Senate put in an amendment to the bill permitting the Secretary of War to lease certain grazing land in Oklahoma, known as the Fort Hill Reservation?

Mr. HULL. No.

Mr. HAY. Mr. Speaker, I want to say that this is an unprecedented resolution, to instruct conferees before there has been any conference. Now, no one can be injured, nor can any jurisdiction be taken away from the great Committee on Appropriations unless it is the will of the House after the conferees return here with their report. Then if it is the sense of the House to instruct the conferees not to agree to these amendments of the Senate, it can be done; but to violate now the rules of the House, not only of this House but of the two Houses, to violate the precedents which obtain, it seems to me would be most remarkable, and the effort on the part of the gentleman from Illinois to bind our hands, or the hands of the conferees in this conference, is to leave us without any discretion whatever.

I do not think that the members on this side of the House should heed the remark of the gentleman from Tennessee, that we ought to support the resolution of the gentleman from Illinois, until the House has had an opportunity to receive the report of the conferees. We are now asking not to concur, and the House has refused to concur in these very amendments. What more can they ask? If we do not do our duty in the opinion of the House, then the House will have an opportunity to instruct us what our duty is, and of course the conferees will obey the instructions of the House.

Mr. HULL. I will now yield to the gentleman from New Jersey [Mr. PARKER].

Mr. PARKER. Mr. Speaker, the principle involved in the decision of this matter goes very far beyond the question arising upon this particular bill. The House passes a bill; the Senate, for reasons known to itself, makes amendments to that bill. The House disagrees to those amendments. They then ask for a conference. For what purpose is a full and free conference between these two Houses asked? Manifestly that by meeting the members of the Senate the House may inquire, as is right, as is courteous, why those amendments were put in, and find out the reasons that urged the Senate to make them. Until that is done we can not know those reasons that influence a coordinate body.

But to pass a resolution that, before knowing or asking for those reasons, we should tell our conferees that no matter what these reasons may be we will not concur is not, in my opinion, conducive to good legislation, because all good legislation depends upon courtesy. It is a statement, not after inquiry, but before, that no matter what is urged by the Senate we will have nothing to do with what they propose.

Now, I do not expect to be upon this conference committee and I do not have anything to do with the conference, but I may say on the floor of this House that the question of barracks and quarters, when we are establishing new posts or moving posts or changing posts where we can get a healthy place for our soldiers to live, is not a question that under all circumstances ought to be controlled by section 1136.

I am astonished that the gentleman from Illinois thinks that the statute passed in 1859 for an army of 10,000 men might certainly and under all circumstances be applicable to our present Army.

Section 1136 says that barracks and quarters for our troops in the Philippines shall not be established until the detailed estimates, including and stating the particular place, have first been submitted to Congress. It may be a necessity to move troops.

This section provides also that the estimate must first be submitted by the Secretary of War, approved by Congress, and an appropriation made by Congress for that purpose. There may be a need to move and give permanent quarters instantly, and to buy land therefor. The section provides that no building, the cost of which shall exceed \$20,000, shall be erected except by special authority of Congress. Meanwhile, the cost of building has so advanced and the style of quarters for soldiers has so changed, with plumbing, solid walls, and sanitary conveniences, that \$100,000 would be a better sum to name now, than \$20,000 was for our Army of 10,000.

The statute further says that nothing shall be done until the title has been reported upon by the Attorney-General. Is the soldier to wait three months for titles to come from the Philippines and then three months for it to go back again?

Mr. CANNON. May I interrupt the gentleman right there?

Mr. PARKER. Certainly.

Mr. CANNON. I want to suggest to the gentleman that the amendment he refers to in no way affects the service in our outlying possessions. They are cared for elsewhere. A million and a half dollars upon this bill, and he is not fair to the House.

Mr. PARKER. If I am mistaken I am glad to be corrected. I do not mean to be unfair to the House. But I will say that the establishment of posts promptly, as our men come home from the Philippines, so that we can take care of 70,000 men, is the other branch to which I was going to direct the attention of the House. It has to be done as the troops arrive.

Mr. HEMENWAY. The gentleman will allow me to ask whether the four and a half million dollars appropriated by the House is not sufficient for that purpose?

Mr. PARKER. The question is not whether the sum of four and a half million dollars already appropriated is sufficient or not. The question is whether the Secretary of War shall have this discretion. Now, I am not going to argue this question beforehand—

The SPEAKER. The time of the gentleman from New Jersey [Mr. PARKER] has expired.

Mr. PARKER. I trust I may have one minute more.

Mr. HULL. I yield to the gentleman for a moment.

Mr. PARKER. The questions involved here are too important to be disposed of beforehand, and the Senate has a right to ask as a matter of common courtesy that we first ascertain their reasons for putting this special provision in the bill before we undertake to assume any position of this kind.

Mr. RICHARDSON of Tennessee. I should like to occupy about two minutes.

Mr. HULL. In connection with what the gentleman from New Jersey [Mr. PARKER] has said, I wish to say that there is nothing in the contention on this amendment affecting the discretion of the Secretary of War to establish a post anywhere. The question here involved is only the question to which the gentleman from Illinois [Mr. CANNON] has addressed himself—the question of discretion as to the amount which may be expended in buildings out of our appropriations. The argument of the gentleman from New Jersey would seem to indicate that the question is one as to the discretion of the Secretary of War in the establishment of posts. I do not know whether he intended to convey that impression.

Mr. PARKER. I did not.

Mr. HULL. Now, Mr. Speaker, how much time have I remaining?

The SPEAKER. Thirty minutes.

Mr. RICHARDSON of Tennessee rose.

Mr. HULL. I first yield ten minutes to the gentleman from Indiana [Mr. HEMENWAY]. I will yield to the gentleman from Tennessee [Mr. RICHARDSON] afterwards.

Mr. HEMENWAY. Mr. Speaker, I have just read in the newspapers this morning a portion of an address delivered by the gentleman from Missouri [Mr. CLARK] last night on the waning influence of the House of Representatives and the increasing influence of the Senate. I fear there is a great deal of truth in what the gentleman from Missouri said; and it is the duty of the House right now, at the first opportunity, to demonstrate that the House of Representatives is going to stand for its rights and that the Senate can not absorb the power of this House.

Now, what is proposed by this amendment? As stated by the gentleman from Illinois [Mr. CANNON], the Committee on Military Affairs has heretofore provided for the improvement of quarters at the different Army posts. The sundry civil bill has carried appropriations for permanent improvements. Now, what did we appropriate? The military bill as it passed this House appropriated \$3,000,000 for improvements at our different military posts—an enormous sum, is it not? But the Senate is not content that that \$3,000,000 shall go for improvements. It wants to take off the limit of \$20,000 to be expended on any one building and add \$1,350,000 to the appropriation and allow the Secretary of War to spend the money as he pleases. Why? At any one of the differ-

ent posts throughout the country to-day the Secretary of War can not expend more than \$20,000 in constructing officers' quarters or any other kind of buildings. But some of our officers believe that they ought to have mansions for quarters; they want buildings costing \$40,000 or \$50,000 or more.

Now, what does this amendment do? It takes off the limit. It allows the Secretary of War to construct officers' quarters that may cost \$100,000, if he sees fit to expend that amount. That is "the milk in the cocoanut." That is what is behind this proposition—to allow the Secretary of War, if he so wishes, to construct officers' quarters at New York or any other place, that may cost \$100,000, without any estimate and without any recommendation coming in from any committee of this House.

Mr. MONDELL. Will the gentleman allow me a question?

Mr. HEMENWAY. Yes; if it is brief.

Mr. MONDELL. The gentleman, I believe, wants to be entirely fair with the House.

Mr. HEMENWAY. Please put your question at once; I have only ten minutes.

Mr. MONDELL. The gentleman knows that the appropriation of one million and a half carried on the sundry civil bill could be used for buildings of any cost. And is there any objection to this amendment that does not also apply to the appropriation carried on the sundry civil bill?

Mr. HEMENWAY. There is objection even to the million and a half carried on the sundry civil bill. But that amount being for expenditures at the different posts of the country, the pressure brought upon the Secretary of War by the different Members of Congress and Senators in favor of their respective localities prevents the expenditure of any very large sums of that appropriation in any one place; whereas if this amendment proposed by the Senate be adopted there will be nearly \$6,000,000 at the discretion of the Secretary of War, to be expended at any place he may select, the result of which will be that expensive and extravagant quarters for officers may be constructed at the different posts all over these United States.

Now, let the House stand by its rights. Let us not by our action verify the story going through the newspapers every day that the House is losing its power, and that the Senate is absorbing the prerogatives of this House and crowding legislation down our throats in spite of the fact that we are the representatives fresh from the people.

I would not advocate this instruction but for the fact that it is reasonably certain that the Committee on Military Affairs favors this amendment. Why, sir, every member of that committee is here opposing this instruction.

We provide by statute that the limit shall be \$20,000, yet they seek, by this appropriation and by this amendment, to remove that limit and allow the Secretary of War to construct buildings at these different points at any price he sees fit. It certainly is right and proper that the House at this time should instruct these conferees, and at the very first opportunity say that the Senate can not take up this legislation and place it on the wrong bill and give to the Secretary of War this power that every member of this House knows he ought not to have.

Mr. HULL. Mr. Speaker, I yield two minutes to the gentleman from Tennessee.

Mr. RICHARDSON of Tennessee. Give me five minutes.

Mr. HULL. I have not got the time.

Mr. CANNON. I hope my friend will be a little lenient about time.

Mr. UNDERWOOD. Mr. Speaker, I ask unanimous consent that the time of debate on this question be extended thirty minutes.

The SPEAKER. The gentleman from Alabama asks unanimous consent that the time of the gentleman from Iowa be extended thirty minutes for the purpose of this debate. Is there objection?

There was no objection.

Mr. HULL. I yield five minutes to the gentleman from Tennessee.

Mr. RICHARDSON of Tennessee. Mr. Speaker, I had not intended to say anything on this question. I have no personal feeling in the matter whatever. It is simply a question of proper legislation. That is all that is involved in it. This proposition comes in a most unusual way. To enact the Senate provisions or amendments as is proposed is in violation of the rules of this House, as well as those of the Senate and the Revised Statutes. It could not be put here under our rules. It has no business here under the revised statute, which the gentleman from Illinois [Mr. CANNON] read, and which the gentleman from New Jersey [Mr. PARKER] also read. The gentleman from New Jersey states that that statute is directly in the face of this legislation. He says that the limit upon the Secretary of War, or the sum he may expend under the conditions provided for or the contingencies mentioned, should be \$100,000 instead of \$20,000.

Now, if that be true, and we want to enlarge the discretion of

the Secretary of War, let us amend that section of the Revised Statutes. The gentleman from Illinois has quoted the statute, and the gentleman from New Jersey says it is insufficient. The proposed legislation could not be put here under the rules of the House. They come and ask us to give this discretion to the Secretary of War to build these permanent barracks. The Senate makes this enormous increase of—say a million or a million and a half of dollars—I have not the exact figures in my mind. I do not care whether it is meritorious or not, this legislation is not proper, and the resolution of Mr. CANNON should be adopted. It is a question of correct and proper legislation, and we ought not to yield to the Senate the right to put this appropriation here.

Mr. HAY. Will the gentleman permit me to ask him a question?

Mr. RICHARDSON of Tennessee. I will in a minute. The revised statute requires that it shall be made after a proper estimate shall be submitted, and there have been no estimates submitted by the Department, and if so, that estimate would have gone to the Committee on Appropriations, placed on file there, and the Committee on Appropriations would have reported the proper amount for the required work in the sundry civil bill. I understand the gentleman from Illinois to say his committee has the estimates from the Department for the work, and has made the appropriation regularly. The Military Committee in the Senate, or the Senate for that committee, usurped the right that belongs to the Appropriations Committee, and without proper estimate comes and increases the expenditures over a million of dollars.

Now, I am not going into the details. I did not purpose going into the merits of the question except to say that it is the duty of the House of Representatives, it is the duty of this side of the House, it seems to me, in matters of this kind, to stand by the rules of the House, for in that only is the safety of the House, and especially the protection of the minority of the House. I hope the instructions contained in the pending resolution will be given. They are not unusual, as my friend from Virginia thinks. Why, it has not been a week since we saw a conference committee appointed here and instructions given before the conferees left this floor.

Mr. HAY. No, the gentleman is mistaken about that.

Mr. HULL. Will the gentleman yield?

Mr. RICHARDSON of Tennessee. I yield to the gentleman from Virginia. I am not mistaken.

Mr. HAY. I will ask the gentleman if it was not a fact that before the conferees on the omnibus claims bill, to which the gentleman refers, were instructed, that the House had gone into Committee of the Whole and had voted down the Selfridge claims?

Mr. RICHARDSON of Tennessee. Yes.

Mr. HAY. Now, you are proposing to instruct the conferees upon questions which have not been acted upon by the House at all.

Mr. RICHARDSON of Tennessee. Neither had that been acted upon by the House at all, but simply by a committee of the House—the Committee of the Whole.

Mr. HAY. Yes, it had. It had been voted out of the bill.

Mr. RICHARDSON of Tennessee. I will answer my friend. I understand his question. It has been done by the committee of the House. The Committee of the Whole is but a committee of the House, and the Committee of the Whole took the action which my friend indicates. That is true, but the House of Representatives ranks the Committee of the Whole and all the committees of the House of Representatives. We had a perfect right when the House saw fit to do it to instruct the conferees not to agree to the Selfridge-board claims, and they did do it. There is no disrespect in giving instructions, and there is no discourtesy to the committee.

Mr. HAY. Now, I will ask the gentleman this question—

Mr. RICHARDSON of Tennessee. I will yield.

Mr. HAY. Upon what premise does the gentleman assume that the conferees are going to yield to the demands of the Senate?

Mr. RICHARDSON of Tennessee. I do not have to assume it. I have a right to assume it, however, I think, when I see every member of the Military Committee, every member of the majority and every member of the minority of that committee undertaking to prevent these instructions.

Mr. HAY. I object to it upon the ground that they should not be instructed at this time.

Mr. RICHARDSON of Tennessee. If you want to do what you say, why object to the instructions?

Mr. HAY. For the very reason that if we are instructed on those amendments it will prevent any appropriation at all passing for the temporary barracks which we provided for in the House bill.

Mr. RICHARDSON of Tennessee. Oh, I think not.

Mr. HAY. It does. It instructs us not to agree to the four-

teenth amendment to the bill, which provides for the temporary barracks.

Mr. RICHARDSON of Tennessee. They are taken care of elsewhere.

Mr. HAY. They are not taken care of elsewhere.

Mr. RICHARDSON of Tennessee. There is no trouble about that.

Mr. HAY. Will the gentleman tell me where this subject is taken care of elsewhere?

Mr. RICHARDSON of Tennessee. I am not familiar with all the provisions of the bill. The gentleman from Illinois [Mr. CANNON] stated a moment ago that that question of barracks was taken care of. The gentleman from Indiana [Mr. HEMENWAY] made the same statement. The gentleman from Illinois is now on his feet. He made that statement a few moments ago, and I will yield to him to state whether it is true.

Mr. HAY. I will ask the gentleman from Illinois where the temporary barracks are taken care of except in the House bill?

Mr. CANNON. The temporary barracks in the House bill are taken care of by the appropriation of \$3,000,000, every dollar that was asked for in the estimate.

Mr. RICHARDSON of Tennessee. Yes.

Mr. HAY. I want to make it plain that if the conferees on this bill are instructed against the fourteenth amendment, proposed by the Senate, we could not take care of the temporary barracks which were provided for in this bill.

Mr. CANNON. My friend is in error about that.

Mr. RICHARDSON of Tennessee. I only want to say, Mr. Speaker—

Mr. HULL. How much time does the gentleman from Tennessee want?

Mr. RICHARDSON of Tennessee. Only a sentence. I wanted to say further that the instructions ought to be given, because it is in conformity with our rules and the statute to give the instructions. The legislation which these instructions will prevent ought not to be enacted, and therefore the instructions ought to be given.

Mr. SNODGRASS rose.

Mr. HULL. How much time does the gentleman from Tennessee desire?

Mr. SNODGRASS. I think five minutes will be enough.

Mr. HULL. I yield five minutes to the gentleman from Tennessee [Mr. SNODGRASS].

Mr. SNODGRASS. Mr. Speaker, it seems to me that this discussion at this time is irrelevant. As I understand the purposes of the committee, they are only contending for the usual courtesies which should obtain between two legislative bodies.

Gentlemen seem to apprehend that if this committee of conference should agree to the Senate amendments it would foreclose this House from disagreeing to their report. If that were so, then this discussion here at this time would be proper, but it seems to me that the remarks of the gentleman from New Jersey [Mr. PARKER] are well timed. We ought to remember that the Senate has the right to proceed under its rules, and we ought to assume that if it has made an amendment upon this bill it had the right to do it under its rules, and it will be only courteous and proper for us before disagreeing thus emphatically with what the Senate has done to inquire of them as to their reasons, and if our conferees should agree to those reasons and report an agreement with the Senate amendments, it would then, as I understand it, be entirely proper for the House to disagree with that and ask for a new conference, and then to instruct the conferees if the House is not satisfied with the reasons given.

Mr. CANNON. My friend does not want to mislead the House. This Senate amendment is not only against the rules of the House, but is flatly against the rules of the Senate as well.

Mr. CLAYTON. And against the law, too.

Mr. SNODGRASS. If that is true, then upon the report of our conferees we can insist upon our right to disagree, and then instruct our conferees. As a member of the Military Committee, Mr. Speaker, I wish to say that I am opposed to this Senate amendment; but I am also opposed to our making ourselves ridiculous by getting unduly alarmed at amendments coming from the Senate. I think they are entitled to be treated with reasonable and courteous consideration.

Mr. CLAYTON. May I interrupt the gentleman? Does he think that it makes the House ridiculous to insist upon standing by the rules and the law now upon the books?

Mr. SNODGRASS. Is it not ridiculous to say to the other body, "We will not consider your amendments at all?"

Mr. CLAYTON. Not when we have had our attention called to the law.

Mr. PARKER. Is not this making law?

Mr. SNODGRASS. It seems to me that is the very way to get up a feeling of hostility between the two Houses and to destroy that courteous consideration which should exist between them.

If we say here now that we will not consider the Senate amendment, and neither will we hear any report from the conference committee, because any report from that committee will be irrelevant if we make these instructions—at least in the particulars to which the instructions relate—it therefore seems to me that to adopt these resolutions at this time would be to make ourselves ridiculous.

That is the reason I have resisted the instruction of the committee at this time. I will say frankly, as I stated a while ago, that I am opposed to this Senate amendment and shall vote against agreement to it; but it seems to me that we ought to have this full and free conference before any further action is taken on the part of the House other than disagree to the Senate amendments.

Now, the Committee on Military Affairs have had this bill under consideration, and it is fair to assume that the conferees will stand by the position of the House and report a disagreement to this amendment. If it is considered that this amendment is in violation of the rules of the House, it is not fair to assume that they will act otherwise; but if they should do so it is entirely within the province of this House to disagree with their report and emphasize the position of the House by instructing other conferees not to agree to the amendment.

Mr. HULL. I yield five minutes to the gentleman from Alabama.

Mr. UNDERWOOD. Mr. Speaker, I dislike very much to disagree with my colleagues in a matter which affects their committee, but I think that the orderly procedure of this House is very seriously involved in this matter. If it was merely a matter of instructing the conferees on the committee in reference to a subject-matter over which they properly had jurisdiction, I grant that it would not be courteous to them, in the first instance, to give them instructions with reference to the matter. There is no question about that, but that is not the question involved in this case. Nobody for a moment has raised that point.

Mr. SNODGRASS. Will the gentleman allow me to ask him a question?

Mr. UNDERWOOD. Certainly.

Mr. SNODGRASS. If the conferees should agree to this amendment, that does not preclude the House from disagreeing to their report?

Mr. UNDERWOOD. I will answer my friend's question—

Mr. SNODGRASS. I say if the conferees should agree to this Senate amendment, if it does override the rules of this House, which gentlemen on this floor seem apprehensive that it will, it does not foreclose the House of its right to disagree to their report?

Mr. UNDERWOOD. It certainly would not, and if they should come back with such a report the House would still have jurisdiction and could overturn the committee when they come back here. But that is not the question that is submitted. If the conferees of this House are allowed to go out and carry this question back into the conference, they are, by the silence of the House, allowed to assume jurisdiction either to approve or to disapprove a proposition that every member of the Committee on Military Affairs recognizes that their committee has not jurisdiction of.

Now, it is not a question of construction. That is not where it is going to. If it was a question of whether the Committee on Military Affairs has jurisdiction, it would be very proper to instruct them if they did not show any disposition to abide by the will of the House. That is not the question here. Here is a proposition that was put in the bill, which comes here from the Senate with a proposition that every member of the Committee on Military Affairs recognizes that that committee has not jurisdiction of, and the object is for us to say to the Senate that you can not—

Mr. HULL. I want to correct the gentleman there—

Mr. UNDERWOOD (continuing). You can not put a provision in this bill that the Committee on Military Affairs has not jurisdiction of.

Mr. HULL. That is where I want to correct the gentleman. You are not stating it correctly, because there is no question as to the jurisdiction of the committee up to the amount of \$20,000.

Mr. UNDERWOOD. Certainly; but that is not the question.

Mr. HULL. We could change the language and still go up to four millions.

Mr. UNDERWOOD. But the gentleman recognizes the Senate amendment has gone beyond the jurisdiction of his committee.

Mr. HULL. There is no question but what the Senate amendment is a change of existing law.

Mr. UNDERWOOD. And gone beyond the jurisdiction of your committee. Now, I say it is of the utmost importance to the orderly procedure of this House, and to the protection of the funds in the Treasury, that the line of demarcation between the jurisdiction of the various committees and appropriations should be clearly maintained. Why? Because if you are going to allow

two committees of this House to have equal jurisdiction over appropriations coming from the great departments, if the head of a department can not get what he wants from one committee of this House, then he carries it to another committee; and then you have rivalry between the two committees to serve the department, which creates lax appropriation. It takes away the power of the House to hold down the appropriations and protect the Treasury.

This is the only way that you can do, and it has been recognized. There is a time in which the Committee on Military Affairs can ask for this jurisdiction, and they can take it. They can come to the House and ask for it. Every gentleman in the House knows that when the President sends his message here at the beginning of the session that message is accompanied by reports from the various officers of the Government. The Speaker of the House takes those reports and assigns a certain portion of that report to one committee and a certain portion to another, thereby defining the jurisdiction of the various appropriation committees in this House. In this instance he has always assigned all matters involving permanent barracks and permanent buildings of the Army to the Committee on Appropriations.

The SPEAKER. The time of the gentleman has expired.

Mr. UNDERWOOD. I would like to have one minute more.

Mr. HULL. I yield one minute more to the gentleman.

Mr. UNDERWOOD (continuing). These matters have always been referred to the general Appropriations Committee. They have always had jurisdiction of it, and carried these matters in the sundry civil appropriation bill. As to matters of small repair and improvements, these matters have been assigned to the Committee on Military Affairs, and it was done in this instance. But under the law they are limited in their expenditures and their appropriations to \$20,000.

Now, here is a case where the Senate has violated the law, assumed jurisdiction that does not belong to them, and it is merely an effort on the part of this House to say that we are going to maintain the line of demarcation between the jurisdiction of these two committees that we established in the beginning of the session. In the beginning of the session, when these various portions of the President's message were assigned to committees, the gentleman from Iowa could have arisen and insisted that the House give his committee jurisdiction instead of the Appropriation Committee. But he did not do it. The Appropriation Committee took it up and did not give the Department all the money it wanted, or did not think they ought to have it; and now the Department goes to another committee and seeks to give them jurisdiction over the matter without estimates.

Mr. STEVENS of Minnesota. At this time it seems rather strange to hear the chairman of the Committee on Appropriations urge in support of his resolution that it grants to the Committee on Military Affairs jurisdiction over matters that such committee would not have without the adoption by the House of these amendments of the Senate. I venture to say that the sundry civil appropriation bill, now in conference, in charge of the gentleman from Illinois, and the bill reported in the last House contain many provisions that change existing law. All of these contain provisions over which the Committee on Appropriations in this House would have no jurisdiction at all but for the adoption of Senate amendments, and this House has always passed them without question, and the gentleman from Illinois has never yet been known to object at this jurisdiction being thrust upon him. It comes with poor grace from him to raise that question.

It seems to me the point the House should consider is this: This bill comes back to the House with a Senate amendment which changes existing law. The Committee on Military Affairs favored nonconcurring with the amendments, and the House has voted to disagree to the amendments. This requires there should be and will be a full and free conference with the Senate. If there be a full and free conference the conferees will be bound by the mandate of the committee and of this House to disagree with these propositions. Then they should bring it back to this House, when can be fully considered the necessity for changing existing law. This amendment does not violate any existing law; it contemplates the change of existing law.

Whether or not that change ought to be made should not now be considered. Undoubtedly there are reasons why the change should be made. Undoubtedly there are reasons why the change should not be made. The House now should not consider what those reasons are on either side of the proposition. There is only one thing that now should be considered, and that is whether or not there should be a full and free conference with the Senate. The House yields none of its prerogatives. On the other hand, by following and adopting the pending resolution the House does tie the hands of the conferees. It ties their hands so that the conferees of the House can not have a fair chance to settle the various points of difference with the conferees of the Senate.

Now, it is useless to talk about putting legislation on this or

any other bill that violates the rules of this House. The Senate does it frequently and we adopt it constantly. It is done more on the bills handled by the gentleman from Illinois than upon any other bills which come before the House. That matter should not now be considered, and least of all upon a motion made under these circumstances. The legislation should be considered upon its merits when it comes before the House in a proper way, when it comes before the House so that all facts and all arguments can be properly weighed. When it does come back on the report of the conferees, such report can be adopted or it can be rejected or it can be modified. All of these reasons that may be applicable can be considered in Committee of the Whole upon the coming back of the conference report. Right now the thing for this House to do to uphold its dignity is to give the conferees the power for a full and free conference, and for that reason the resolution of the gentleman from Illinois should be disagreed to.

Mr. PRINCE. Mr. Speaker, there seems to be some contention as to whether the House should stand by the Military Committee or whether it should stand by the resolution introduced by the chairman of the Committee on Appropriations. What really is the status of this measure? The bill was originally introduced into this House and referred to the Committee on Military Affairs. The committee had originally jurisdiction of this question. The Committee on Military Affairs prepared a measure, properly presented it to the House, and the House passed it, and it went to the Senate. Up to this time no question of jurisdiction can possibly be raised as against the measure. The Senate makes some amendments to the measure, of which the House Committee on Military Affairs has original exclusive jurisdiction.

Now, the question is presented whether because something else has been inserted in that measure in the form of an amendment the House Committee on Military Affairs loses jurisdiction on this measure in part, and must be instructed by members of the Appropriation Committee as to how to proceed in the matter which legitimately belongs to the Committee on Military Affairs. Amendments have been made by the Senate. We must take it for granted, gentlemen of the House, that the Military Committee of the Senate had a reason, or reasons, for making the proposed amendments and sending them to this body. If they had, why should we not hear them in an orderly way through the properly constituted committee of conference?

Is there any harm in these conferees being appointed untrammelled to go to the other body and then reporting to this body the result of the conference? It is divulging no secrets of this House to say that when this bill was brought back amended and referred to the Military Committee that that committee unanimously directed the conferees, when appointed, to resist all of these amendments specifically and so report to this House. After the reasons of the Senate have been heard, let the matter be brought before the House so that we may understand those reasons fully.

Let me say to the House that we have never known the Military Committee or a conference committee formed from the members of that Committee to go against the wishes of this House. They have never stood here pretending to do one thing and doing another. They have ever been amenable to the wishes of the House. They have ever sought to carry out those wishes. Why then at this time should the House want to trammel this committee in this way? I say that a distinguished committee of the House, such as this committee, ought not to be so treated by their fellow-members. I ask gentlemen upon both sides of the House, irrespective of party questions, to stand by the Military Committee, to stand by the ordinary method of procedure, to see that the conferees are appointed in the regular orderly method, and our action conveyed in that way to the other Chamber. When these conferees return to the House, then, if they have in any respect violated the judgment of the House, we can go against them, but not till then.

Mr. HULL. Mr. Speaker, how much time is there remaining?

The SPEAKER. Twenty-seven minutes.

Mr. HULL. I yield five minutes to the gentleman from Indiana [Mr. OVERSTREET].

Mr. OVERSTREET. Mr. Speaker, I am not a member of either the Appropriations Committee or the Committee on Naval Affairs. I think it only fair that members should take into consideration the judgment of members who have no feeling as connected with either of these committees.

I shall express no opinion as to the merits of the amendments which the Senate has placed upon this military appropriation bill. I believe, Mr. Speaker, that when a committee of conference has been given jurisdiction of a great subject involving millions of dollars it is entitled to enter into a fair and free conference without in the first instance receiving instructions from the House.

Mr. HEMENWAY. Will the gentleman yield for a question? I wish to ask how the committee got jurisdiction of this subject—whether under the rules of the Senate or the House?

Mr. OVERSTREET. It had jurisdiction under the rules of the House regulating our action upon the Army appropriation bill.

Mr. HEMENWAY. Is this the Army appropriation bill?

Mr. OVERSTREET. The gentleman must not take up more of my limited time. He refused to entertain questions himself.

Mr. HEMENWAY. Oh, no; I answered every question.

Mr. OVERSTREET. I think the only question for us to consider now is this: Shall the Military Affairs Committee have one free conference? We have not before us now a conference report. This question comes back to us for the first time since the passage of the bill by the House. The appointment of conferees has not even been asked until now, when it is asked by the chairman of the Committee on Military Affairs. I do not know what this committee may do, and I will be fair and say I do not care, so far as the amendment in which the gentleman from Illinois is interested may be concerned.

But, Mr. Speaker, when one committee, even though it be the great Appropriations Committee, sees fit to establish itself as a censor over all the other committees, it is not treason for us to ask that another committee be enabled to exercise its ordinary privileges under the rules of this House which created both committees. [Applause.]

I believe, Mr. Speaker, that the membership of the Committee on Military Affairs consists of gentlemen as careful in their examination of bills, as patriotic in their motives, as cautious in reference to the expenditure of money as the great Appropriations Committee of the House. Let us give them the same fair treatment that we accord to other committees. If after the first conference they should come back having violated any of the trusts which we have committed to them, having fallen short of that care and attention which we expect from them, then will be the opportunity for the guardians of the Treasury to interpose objections and ask instruction on the part of the House.

The gentleman from Tennessee cited the action of this body a few days ago in instructing the conferees representing the Committee on War Claims upon a bill then pending. Aye, there was such action; and though I voted for those instructions it was not until after those conferees had had an opportunity for free conference. I would oppose as much for one committee as for another the imposition of instructions before there has been any opportunity for the conferees to act. But when, having had such opportunity, they have failed to measure up to it this House can afford to impose instructions.

I concede, Mr. Speaker, that the doubt having been raised here might be construed as a vote on the part of this House in favor of the Senate committee; but that is an unfair construction. We are discussing procedure and not the merits of this amendment. We are discussing the action of a committee of equal privileges on this floor and not the usurpation of rights and power by the Senate. We can leave those discussions for their proper time.

I think, Mr. Speaker, that we ought, in the first instance, to accord to this great committee of the House an opportunity for a fair and free conference. If they should come in here later reporting this amendment struck out it would only prove the justice and propriety of this action. If, on the other hand, after considering the merits of the question, they should recommend in favor of the amendment that will be a time and an opportunity for instruction if it be deemed necessary. But I appeal to members of all parties to see to it that one committee shall not establish the criterion for the conduct of all.

Mr. CANNON rose.

Mr. HULL. How much time remains?

The SPEAKER. Twenty-two minutes.

Mr. HULL. How much time does the gentleman from Illinois [Mr. CANNON] desire?

Mr. CANNON. Only a little; five minutes, or perhaps a little more.

Mr. HULL. I yield to the gentleman five minutes.

Mr. CANNON. Mr. Speaker, let us take our bearings. This is not a question of committees. What is a committee? Is it larger than the power that creates it? I always supposed the committees of this House were the servants of this House, to proceed under rule and register the will of the House. If the contrary is true, then we have 50 committees that are bigger than the House is.

Now, then, this is no question of committee jealousy. It is a question of this House registering its decree that shall bind the committee, aye, shall bind even my fair-haired friend from Indiana [Mr. OVERSTREET], who does not care the snap of his finger, as he snaps them in my face, about the merits of this proposition. Oh, no. What is the proposition? It is to go against the rules of the House and the rules of the Senate, against existing law, and to give, without being asked for by the Executive, \$1,350,000, not authorized by law, and change the law. Who asks it? The Secretary of War? No. The President of the United States? No. Yet, my friend, eminent in the councils of his party, does not care

three hurrahs in the hot place about the merits of this proposition. [Laughter.] Oh, sir, I will tell you, you and I will need a better record than we are making touching expenditures when we go on the hustings next fall.

Now, the roll has been called of the gentlemen on this Committee on Military Affairs—there is my friend there, my two or three friends over there, my estimable friend from Minnesota, and my estimable colleague from Illinois. The roll has been called and they say, do not reflect on this committee. Nobody wants to reflect on it. It is acknowledged on the floor of this House that the disagreement with the Senate is pro forma, like nearly all disagreements upon Senate amendments. It is acknowledged by this committee that they are for the Senate amendments.

Mr. OVERSTREET. That is not true.

Mr. HEMENWAY. Of course it is true.

Mr. OVERSTREET (addressing Mr. HULL). Why, you do not acknowledge that you are for this amendment?

Mr. HULL. No; I do not.

Mr. CANNON. The committee has, as I understand the gentleman, declared it is in favor of this amendment.

Mr. HULL. Oh, no; it declared that it is against it.

Mr. CANNON. Oh, well, pro forma against it, but you yourself will not rise in your place and say you are against it.

Mr. HULL. I will rise in my place presently.

Mr. CANNON. Nor will the gentleman from Virginia on that side of the House rise in his place and say he is against it.

Mr. HAY. Yes; I will say that I am against increasing this appropriation one dollar.

Mr. CANNON. Well, but the change in the law.

Mr. HAY. Oh, that is an entirely different proposition.

Mr. CANNON. That is the material thing.

Mr. HAY. Yes; it is the material thing to the Committee on Appropriations; that is what it is.

Mr. CANNON. Are you against the change of the law as proposed in the amendment of the Senate?

Mr. HULL (addressing Mr. HAY). What do you want to go on the stand now for? [Laughter.]

Mr. CANNON. That is right. Is there another mourner present? [Laughter.]

Mr. HAY. I am not afraid to answer the question of the gentleman. I will say to the gentleman when that question comes up that I will debate it with him.

Mr. CANNON. What is the practical effect of all this? We offer this resolution to tell this committee that the House creates, as it creates all other committees, what the opinion of the House is about this. It is not uncommon; it is not unparliamentary; it is not improper. On the contrary, it is highly proper. How do these great bills become settled? By going to conference. When will it be reported? Probably in the last twenty minutes.

The SPEAKER. The time of the gentleman has expired.

Mr. HULL. I yield two minutes more to the gentleman.

Mr. CANNON. Well, the gentleman has twenty-two minutes. Let me have two minutes.

Mr. HULL. I have.

Mr. CANNON. Well, now, on the last day of the session this bill is to come back, when the House is pressed from every standpoint and can have no time to consider it, and my friend from Iowa [Mr. HULL] will go around and say, "Oh, stand by us; it is not just right, but we have no time, the time for adjournment is fixed." That is a very common thing. By this kind of proceeding the Senate puts the House at a disadvantage, and this practice is responsible for multiplying tens of millions of bad appropriations and bad legislation. To-day we have the time. The question has been discussed. I believe this House ought to be, and I hope is, against duplicating this appropriation and changing this law in this way. Therefore I have offered this resolution and asked the House to adopt it.

Now, suppose you do not adopt it. The negative is that the House is for it, and the conferees would be justified in agreeing to the \$1,350,000 increase and the change in the law. There it is. I am in entirely good temper over it, although sometimes I get very much in earnest about it. Sometimes I think, when somebody tries to avoid the merits of a question and opens his mouth and throws his head back and says, "May the Almighty Father damn this Committee on Appropriations that is trying to boss us," that such method of warfare is awfully cheap, I will say to my colleague from Illinois.

Mr. HULL. I yield three minutes to the gentleman from Rhode Island [Mr. CAPRON].

Mr. CAPRON. Mr. Speaker, in the three minutes which have been yielded to me I propose to address myself principally to the gentleman from Illinois [Mr. CANNON], the distinguished chairman of the Committee on Appropriations, and at the end of that time I expect the gentleman from Illinois will ask permission of this House to withdraw this resolution. [Laughter.]

Mr. HEMENWAY. Why not speak to the merits of the resolution instead of to the gentleman from Illinois?

Mr. CAPRON. The argument we have heard here has been interesting; perhaps it is instructive, but it ought not to result in instructions. I will ask you, gentlemen, in all seriousness, you who have walked from here to the other end of the Capitol until you have worn down the flagstones going to and coming from conference committees. I will ask you if you feel that at the first going forth from this House you go instructed you would be in any different attitude from the Senate conferees if they were to meet you, saying "the Senate has placed an amendment on this bill and the Senate has instructed us by a vote not to recede from that amendment?" I know what the gentleman from Illinois [Mr. CANNON] would say under those circumstances. He would say: "Gentlemen of the Senate conferees, we will go back to the House, because there is nothing upon which to confer;" and I hope the House does not propose to put its conferees in that attitude.

Mr. CANNON. And then the Senate would back down or the bill would fail.

Mr. CAPRON. And if your conferees meet the Senate conferees upon the 17 or 18 amendments that the Senate have placed upon this bill and can not find the Senate conferees ready to yield upon those which the conferees shall consider contrary to our rules and to the law, then I suppose the gentlemen representing this House will say the same thing in the same words which my friend from Illinois [Mr. CANNON] has used; but you propose to deprive them of ever having that opportunity, and I do not believe any conferees ever ought to be sent from this body without the opportunity to have a full and free conference. I do not believe they ought to go over there with their hands tied behind them and their tongues tied in their mouths, because that is not conference at all. We might as well send over a phonograph and unwind it and let that talk to the Senate conferees.

I believe your conferees ought to be appointed from those in whom the House has confidence, and then if we come back, having failed to discharge our duty, it will be ample time to say, and I hope that at that time the gentleman from Illinois will say, as has been said in the past upon a bill, as I very well remember, "These conferees are not acting according to the will of the House," and then there will be other conferees appointed.

Mr. HEPBURN. Mr. Speaker, will the gentleman yield five minutes to me?

Mr. HULL. Mr. Speaker, I should like to close the debate. I have promised to yield to the gentleman from Virginia three minutes.

Mr. HAY. I will yield that time to the gentleman from Iowa.

Mr. HULL. If the gentleman will do that, then I will yield to the gentleman from Iowa.

Mr. HEPBURN. Mr. Speaker, I think there is one view of this situation that has not been presented to the House. This resolution does not impart censure to this committee, and it is necessary in my view, because of an evil habit that has grown up in this House with regard to matters of this kind.

The House has not considered one of the Senate amendments. The rules of this House contemplate that they should be considered. The gentleman from Iowa [Mr. HULL] asks unanimous consent that the House do not consider them, that the House non-concur in them and turn them over to the conference committee without one word having been uttered as to what the preference of the House is with regard to those matters. They are Senate amendments. They have not been discussed in the House. The committee of conference will have nothing to guide them as to the will of the House, and therefore this resolution that does signify the preference of this House is, in my judgment, entirely proper to be given to them.

I might go a step further and say that I believe this House is the victim of two forces—two bodies constantly encroaching upon the prerogatives and rights of the House. One is the Senate of the United States. The other is the conference committees of this House. [Applause.] How many times has this House been betrayed by its own committees? How many times have things important to the House been surrendered by its conferees and the House placed in a position where it could not protect itself? I think it is time that something should be done; that the conference committees of the House should be given to understand their duties in this matter. And, mind you, the House does not select the conference committees. Mind you, the Speaker does not select them. They are selected through a custom, and before a conference committee is appointed we always know who will be on that committee.

If it is an amendment put on in the House, in almost every instance it is an amendment against the preference of the committee; and if they maintain the views of the House, they surrender their own. So it often happens that these gentlemen, beaten in the House, get their revenge by surrendering to the Senate amendment [applause], often possibly securing their reenactment in order that they may agree to them.

Mr. CLARK. I will ask the gentlemen from Iowa if he does

not think the custom ought to be adopted by the House that has been adopted in the Senate—to appoint conferees in favor of the thing that this body adopts, without reference to rank on the committee?

Mr. HEPBURN. It often happens the conferees appointed by the House are opposed to the will of the House as expressed in legislation on their bill. The committee brings in a bill. We have the right to assume that they are in favor of it. It is the pleasure of the majority of the House to change it. It is against their will, and they right themselves, not here, but in the conference committee. Now, I do not think it is disrespectful when I vote for this resolution offered by the gentleman from Illinois. I am not disrespectful to my colleague from Iowa. I respect him; I honor him; but he does not know at this moment what the will of this House is, because he has taken the means himself of precluding himself from having that information by asking that a pro forma disagreement be indulged in and the whole subject referred to himself.

Mr. HULL. Mr. Speaker, the gentleman from Iowa [Mr. HEPBURN] simply does not understand anything about the action of the Committee on Military Affairs when he speaks about the mere pro forma disagreement. The course of action that this bill has undergone is the almost universal action in the House, practically, of disagreeing to all the amendments and the appointment of a conference committee. If we had gone into Committee of the Whole House and had passed upon these amendments, unless we had agreed to the amendments there would have been no difference in the action so far as the House is concerned as to this bill other than that already taken by the House.

The proposition that measures are offered in the House and voted down, and then conferees appointed and give away the contention of the House, has no application in this matter at all, because these amendments were put on the bill in the Senate, and no member of the House has put himself on record as in favor of them. Now, so far as the jurisdiction is concerned, that is not in issue and can not be in this House, because you can not limit by the rules of the House what the Senate may put upon a bill. But if the conferees on the part of the House come back here with a report that in the judgment of the House is surrendering any of its prerogatives, then the House has the power, as it did with the Committee on War Claims, to vote down the report and instruct the conferees. I think every member of the House realizes that a thoughtful member will be very careful not to bring in a report that he feels is contrary to the judgment of the House.

Now, as to the proposition of my friend from Illinois that it is common to hold back these great bills until the last hours of the session and then bring them here under whip and spur with the threat that unless they are adopted in a conference report by the House there will be no bill passed, I think he must speak from experience of his committee in that respect and not of matters coming from the Committee on Military Affairs.

Mr. CANNON. I do.

Mr. HULL. I say to this House that no bill reported by a conference committee from the Committee on Military Affairs has ever been held back until the closing hours, or that we have ever undertaken in any way to get snap judgment on the House.

Mr. CANNON. I do speak from experience, and respectfully, of a body in another place, that it is a part and parcel of its policy to hold these great measures until they are driven through in the last twelve or twenty-four hours of the session.

Mr. HULL. On that theory, you could instruct your committee so that it could not go into a free conference, and the Senate could hold back, and say that they will not have any conference at all if they can not discuss these matters, and hold the matter up to the last of the session; and they would have some reason for such action.

Mr. CANNON. But if we instruct the conferees, you will be powerless to ever agree.

Mr. HULL. That is true; we are powerless to agree, and the bill would fall on the same theory. So there is nothing in that argument one way or the other.

The gentleman from Indiana seemed to be terribly frightened over this idea that we were giving too great jurisdiction to the Secretary of War.

Mr. SHATTUC. Will the gentleman allow me to ask him a question?

Mr. HULL. Certainly.

Mr. SHATTUC. Will this be the last opportunity that we will have to show our independence of the Senate?

Mr. HULL. Oh, no; I should think not. I think it would be a terrible thing if so. The gentleman from Indiana submits—

Mr. GROW. Will the gentleman allow me?

Mr. HULL. I have only two or three minutes. I want to conclude the suggestion I was making. The gentleman from Indiana made his argument on the theory that we were giving

the Secretary of War such an enormous jurisdiction over appropriations. I want to say to this House that that is not a fair argument, because there is no appropriation passed by the Appropriations Committee that limits the Secretary of War to any amount of money that he may spend or that he will put into a building, and I think the idea that he will put in any more than will erect the building is an absurdity.

The gentleman from Illinois, the chairman of the Committee on Appropriations, has based almost his entire argument on the theory that here is a million and a half dollars proposed by the Senate, not asked for by any Department, and that, of course, we are going to give it to them. I submit to the House, is it fair for any man, even for the chairman of the Committee on Appropriations, to assume that this committee is inclined to give beyond the amount asked for by the Department? Is that fair? I want to say to you that I have not heard a member of the committee advocate the theory of giving the extra million and a half dollars. There is no reason to believe that the conferees will ever agree to giving more than is asked for by the Government. The gentleman's argument on that subject is, to my mind, absolutely without force. If we were to do that and come before the House, the argument he makes would then be pertinent. He could say that we had tried to give more money than the Government wanted for certain purposes.

I do not know—and I assume that no other member knows—why the Senate wanted to increase that so largely. But I do know this, that the Committee on Military Affairs in place of giving beyond the estimates of the Government, have pared them down in almost every case. It is fair to assume that they will do the same in this.

Mr. Speaker, my contention now, as it has been from the beginning, is, not to argue as to the merits of the amendment until it comes before the House. The proposition now is not whether we shall adopt them or not; my proposition is that it is unusual, it is not right to instruct the committee of the House before it has had a conference. It is not fair to assume that they are going to violate any of the proprieties until they have had an opportunity to bring before the House their work, and let the House see whether they are violating them or not. I do not believe, after what the gentleman from Illinois has said, that I am violating any confidence when I state that I offered to bring in a disagreement on the measure so that it might be voted upon directly and independently by the House if the gentleman would allow it to go to conference without instructions, but it was not thought best to do it. Now, Mr. Speaker, I move the previous question.

The SPEAKER. The gentleman from Iowa demands the previous question.

The previous question was ordered.

The SPEAKER. The question is on agreeing to the resolution offered by the gentleman from Illinois.

The question was taken; and on a division (demanded by Mr. CANNON) there were 107 ayes and 50 noes.

So the resolution was adopted.

Mr. HULL. Mr. Speaker, would it be in order now for me to change my motion that the House nonconcur in the amendments, and agree to certain amendments and let it go without a conference?

The SPEAKER. The House has already voted to ask for conferees.

Mr. HULL. Then, Mr. Speaker, I move to reconsider that vote so that we may dispose of it in the House without a conference. I move to reconsider the vote.

Mr. CANNON. I move to lay that motion on the table.

The SPEAKER. The gentleman from Iowa moves to reconsider the vote by which the conference was asked for, and the gentleman from Illinois moves to lay that motion on the table.

Mr. HULL. Will the gentleman allow me to say—

Mr. RICHARDSON of Tennessee. I call for the regular order.

The SPEAKER. The question is on the motion of the gentleman from Illinois to lay the motion of the gentleman from Iowa on the table.

The question was taken; and the motion to lay the motion on the table was agreed to.

The SPEAKER appointed as conferees on the part of the House Mr. HULL, Mr. CAPRON, and Mr. HAY.

PENSION BILLS WITH SENATE AMENDMENTS.

The SPEAKER laid before the House the following pension bills with Senate amendments, which amendments were severally read, and, on motion of Mr. SULLOWAY, concurred in:

A bill (H. R. 2857) granting an increase of pension to Frances J. Haughton;

A bill (H. R. 7397) granting a pension to Louisa White;

A bill (H. R. 1346) granting a pension to Adelbert L. Orr;

A bill (H. R. 6625) granting an increase of pension to Mary C. Downing; and

A bill (H. R. 9606) granting a pension to Charles Blitz.

The SPEAKER also laid before the House the amendments of the Senate to House bills of the following titles, when, on motion of Mr. SULLOWAY, the House nonconcurrent in the amendments, respectively, and asked a conference with the Senate; whereupon the appointment of House conferees was announced in each case as indicated:

A bill (H. R. 4103) granting a pension to William C. Hickox; House conferees, Mr. SULLOWAY, Mr. SAMUEL W. SMITH, and Mr. NORTON.

A bill (H. R. 8794) granting an increase of pension to Henry I. Smith; House conferees, Mr. RUMPLE, Mr. DEEMER, and Mr. MIERS of Indiana.

A bill (H. R. 8840) granting an increase of pension to John H. Lauchly; House conferees, Mr. GIBSON, Mr. KLEBERG, and Mr. SAMUEL W. SMITH.

A bill (H. R. 9544) granting an increase of pension to George W. Barry; House conferees, Mr. SULLOWAY, Mr. KLEBERG, and Mr. GIBSON.

A bill (H. R. 10505) granting an increase of pension to Solomon P. Brockway; House conferees, Mr. GIBSON, Mr. DARRAGH, and Mr. MIERS of Indiana.

LEAVE OF ABSENCE.

By unanimous consent, Mr. CURTIS obtained leave of absence for ten days, on account of important business.

OLE STEENSLAND.

Mr. GIBSON. I rise to present a conference report, which I send to the desk.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 10782) granting a pension to Ole Steensland, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment.

HENRY R. GIBSON,
W. A. CALDERHEAD,
ROBERT W. MIERS.
Managers on the part of the House.

A. G. FOSTER,
J. C. PRITCHARD,
JAMES P. TALIAFERRO,
Managers on the part of the Senate.

The statement of the House conferees was read, as follows:

The bill originally passed the House granting a pension of \$24 per month; the Senate, by amendment, reduced the rate of the pension to \$12 per month. The result of the conference is that the Senate recedes from its amendment, and this leaves the rate of the pension at \$24 per month, as fixed originally by the House.

HENRY R. GIBSON,
W. A. CALDERHEAD,
ROBERT W. MIERS.
Managers on the part of the House.

The report was agreed to.

INAUGURATION OF CUBAN REPUBLIC.

Mr. HITT. Mr. Speaker, I ask the unanimous consent of the House for the consideration of the resolution which I send to the Clerk's desk.

The Clerk read as follows:

Resolved by the House of Representatives of the United States of America, That this House views with satisfaction, and expresses congratulation at, the appearance this day of the Cuban Republic among the nations of the world.

[Loud applause.]

The SPEAKER. Is there objection to the consideration of this resolution? [A pause.] The Chair hears none.

Mr. HITT. Mr. Speaker, it is evidently unnecessary that there should be any debate on this resolution. I will merely say that it was suggested by the gentleman from New York [Mr. SULZER] [applause]; and I know that all members on both sides of the House will welcome the opportunity to vote for it.

The question being taken, the resolution was adopted.

On motion of Mr. HITT, a motion to reconsider the vote by which the resolution was adopted was laid on the table.

PASSPORTS.

Mr. ADAMS. Mr. Speaker, under the special order made by the House, I call up House bill 8129.

The SPEAKER. The Clerk will report the order of the House. The Clerk read as follows:

On motion of Mr. ADAMS, by unanimous consent, it was ordered that immediately after the disposition of the bill H. R. 12543, "A bill to enable the people of Oklahoma, Arizona, and New Mexico to form constitutions and State governments and be admitted into the Union on an equal footing with the original States," the House shall proceed to the consideration of the bill H. R. 8129, "A bill to amend sections 4075, 4076, and 4078 of the Revised Statutes."

The SPEAKER. The Clerk will report the bill referred to in the order of the House.

The bill as amended by the committee was read, as follows:

Be it enacted, etc., That section 4075 of the Revised Statutes of the United States is hereby amended by inserting after the phrase "consular officers of

the United States" the following: "and by such chief or other consular officer of the insular possessions of the United States."

SEC. 2. That section 4076 of the Revised Statutes is hereby amended so as to read as follows: "No passport shall be granted or issued to or verified for any other persons than those owing allegiance, whether citizens or not, to the United States."

SEC. 3. That section 4078 is hereby amended so as to read: "If any person acting or claiming to act in any office or capacity under the United States, its possessions, or any of the States of the United States, who shall not be lawfully authorized so to do, shall grant, issue, or verify any passport or other instrument in the nature of a passport to or for any person owing allegiance, whether a citizen or not, to the United States, or to or for any person claiming to be or designated as such in such passport or verification, or if any consular officer who shall be authorized to grant, issue, or verify passports shall knowingly and willfully grant, issue, or verify any such passport to or for any person not owing allegiance, whether a citizen or not, to the United States, he shall be imprisoned for not more than one year or fined not more than \$500, or both; and may be charged, proceeded against, tried, convicted, and dealt with therefor in the district where he may be arrested or in custody."

Mr. ADAMS. Mr. Speaker, before proceeding to submit to the House the reason for the passage of this bill, I would like to move an amendment to correct a typographical error. On page 2, line 7, amend by striking out the word "consular" and inserting the word "executive;" so as to read "executive officer" instead of "consular officer." It is a typographical error in the printing of the bill.

The SPEAKER. If there is no objection, the amendment referred to will be agreed to.

There was no objection.

Mr. ADAMS. Mr. Speaker, I simply would state for the information of the House that this is a bill that came from the Department of State and is reported unanimously by the Committee on Foreign Affairs. The sole object of the measure is to enable the State Department to issue passports to all the citizens of the United States and those of our recent possessions. As the law now stands it reads that the State Department has authority to issue passports to citizens of the United States, but in the opinion of that Department it prohibited them from issuing passports to the citizens of the islands of Porto Rico and the Philippines. In order to overcome this difficulty this bill has been drafted with great care, having been submitted to the Attorney-General, and, after careful consideration by the Foreign Affairs Committee, as I have already said, is unanimously reported.

The inhabitants that have come under the dominion of the United States, being under its sovereignty, are entitled to its protection, and as a sequence to that are entitled to evidences in the form of passports to show for their protection wherever they may go. It has been the custom of the State Department sometimes to issue certificates in lieu of passports, but as the laws of some of the countries demand passports for admission thereto, or in recognition of the citizenship of the people of the other countries, it is necessary this should be done in order to enable the State Department to give these people evidence that they are under the protection of the country and to exhibit it wherever they may go. The amendment simply revises the statute in that respect and has no other object.

Mr. SMITH of Kentucky. Mr. Speaker—

The SPEAKER. Does the gentleman from Pennsylvania yield to the gentleman from Kentucky?

Mr. ADAMS. Yes. How much time does the gentleman want?

Mr. SMITH of Kentucky. I would like to have five or ten minutes.

Mr. ADAMS. I yield ten minutes to the gentleman.

The SPEAKER. The gentleman from Kentucky is recognized for ten minutes.

Mr. SMITH of Kentucky. Mr. Speaker, my attention had never been called to this bill until it was reported some ten or twelve days ago, and as I heard it read from the Clerk's desk it occurred to me as one that proposed to make some rather radical if not dangerous changes in our statutes relative to passports. It seems to have come at the suggestion of the Secretary of State. Indeed, sir, the bill before the committee, as I understand from their report, was drafted by the Secretary of State himself.

But the question arises as to whether the change proposed by this bill is an advisable one. The Secretary of State sent in a bill to the chairman of the committee which proposed to strike from the existing statute the words "citizens of the United States" in one section and "citizen of the United States" in another section, and to insert "persons owing permanent allegiance to the United States" in the place of the one and "person owing permanent allegiance to the United States" instead of the other. The present statute, section 4076, reads as follows:

No passport shall be granted or issued to or verified for any other person than a citizen of the United States.

Now, Mr. Speaker, I shall not undertake to discuss the political status of the people in the Philippine Islands. I take it that there is no one to deny that the residents of Porto Rico and Hawaii are at present citizens of the United States. So that this bill, in its practical application, has reference solely to the residents of the Philippine Islands. I may say, briefly, that I

believe that the residents of the Philippine Islands are citizens of the United States. I believe that they owe permanent and unqualified allegiance to the United States, and I believe, on the other hand, that the Government of the United States owes an absolute duty to these people, as they owe a permanent allegiance to that Government, to protect them as it does other citizens.

I believe that the present statute upon the books is broad enough to authorize the issuing of passports to the citizens of the Philippine Islands; but there are gentlemen on the other side and perhaps some on this side who disagree with me upon that proposition. I would be willing to unite with them on some expression that would clearly embrace the citizens of the Philippine Islands, without compromising the position of either party. I believe that if the committee had adopted the bill as proposed by the Secretary of State, it would have served their purpose and would not have compromised anybody's views upon the question as to the status of the Filipinos.

The proposition of the Secretary of State was that you should strike out the word "citizen" and authorize the issuing of passports to all persons "owing permanent allegiance to the Government of the United States." You could have supported that proposition; I could have supported it. But the committee have seen proper to change that language, and they propose to say that passports may be issued to persons who owe allegiance to the United States, whether they be citizens or not. In other words, the position of the committee is that there may be people who owe permanent allegiance to the United States but who are not citizens thereof.

Now, my criticism upon the language proposed by the committee is that there are different kinds of allegiance owing to the Government. There is what is known as a temporary allegiance, as well as that of permanent or unqualified allegiance. There are a great many people in this country who owe temporary allegiance to the United States who are not citizens of the United States. Every man knows this to be true. So that under this bill you propose to authorize the Secretary of State to issue passports to people who are not citizens of the United States and who do not owe permanent allegiance to its Government. So far as I am advised, there is not a government under the shining sun that undertakes to issue passports to people who are not citizens of that government. If you pass this bill, you place your Government in the attitude of authorizing passports to people who owe but temporary allegiance to your Government, because you use merely the expression "allegiance," whereas the Secretary of State used the expression "permanent allegiance."

Now, as I said, I would be perfectly willing to accept the proposition of the Secretary of State. I believe that the residents of the Philippine Islands owe permanent allegiance to the Government of the United States, and, believing that, I would be willing to pass a law that would authorize the issue of passports to all persons who owe permanent allegiance to the United States. But you ask me to go further by your amendment; you ask me to vote for a proposition that will authorize the Secretary of State to issue passports to everybody that owes any kind of allegiance to the Government of the United States, and I am unwilling to support that kind of a proposition. It will bring about confusion and perplexity to the Secretary of State in the administration of your passport laws, and I believe that it is an inadvisable amendment. I believe that it ought to be voted down and that the provision as drafted by the Secretary of State ought to be passed by the House in lieu of it.

Mr. ADAMS. In regard to the objection of the gentleman from Kentucky [Mr. SMITH] I would state that the word "permanent" is only an adjective; that all allegiance is permanent until it is broken by the Government or broken by the citizen. The word "permanent" does not reinforce the fact of allegiance. It is simply an adjective.

Mr. SMITH of Kentucky. Will the gentleman yield?

Mr. ADAMS. Certainly.

Mr. SMITH of Kentucky. If the gentleman will refer to the case of *Radich v. Hutchins* (95 U. S.), and to the case of *Carlisle v. The United States*, reported in 16 Wallace, he will see that the court says:

As a foreigner domiciled in the United States he was bound to obey all the laws of the United States not immediately relating to citizenship and was equally amenable with citizens to the penalties prescribed for their infraction. He owed allegiance to the Government of the country so long as he was therein.

So that there is such a thing as a temporary allegiance.

Mr. ADAMS. Mr. Speaker, passports are not issued to foreigners temporarily residing in any country.

Mr. SMITH of Kentucky. Yes; but you are proposing to pass a law that will authorize it.

Mr. ADAMS. Not at all.

Mr. SMITH of Kentucky. I think I have demonstrated it.

Mr. ADAMS. Not at all. The kind of allegiance referred to in that case is what you may call a police allegiance, which simply is imposed on foreigners temporarily residing in any country, that they will be amenable to the laws and do no act that would bring discredit or warfare upon that country.

Mr. SMITH of Kentucky. It is a temporary allegiance.

Mr. ADAMS. That may be, but it is a specified kind, understood in international law between different countries, and has no reference to the allegiance due between the inhabitants of any country and the government thereof.

Mr. SMITH of Kentucky. Let me ask you this question: You authorize the issuing of a passport to anyone who owes allegiance to the United States. Now, does not that cover any kind of allegiance that a person may owe?

Mr. ADAMS. No, sir.

Mr. SMITH of Kentucky. Why does it not?

Mr. ADAMS. Simply because residents and inhabitants of a foreign country are never granted passports in the country in which they temporarily reside.

Mr. SMITH of Kentucky. But if you pass this bill you authorize this Government to do so.

Mr. ADAMS. Then you will fall from the established rule that prevails in all nations of the world.

Mr. SMITH of Kentucky. Now, the gentleman knows that they can not secure passports at all under the law at present.

Mr. ADAMS. And they will not under this law. They are citizens of a foreign country temporarily residing, and they can not be granted passports and can not apply for them.

Mr. SMITH of Kentucky. The gentleman has abandoned the expression of our present statute, "citizens," and designated people who are entitled to passports "persons owing allegiance to the United States," which is a change of the entire system. You are undertaking to say that any person who owes allegiance to the United States shall be entitled to a passport, and this will cover persons owing temporary allegiance.

Mr. ADAMS. The gentleman does not distinguish between foreigners and residents that owe temporary allegiance; referred to here is permanent allegiance, but not necessary to say that. All allegiance is permanent until forfeited or broken by act of disloyalty. It is permanent in its very nature. The adjective adds no force to the temporary allegiance.

Mr. SMITH of Kentucky. You say the allegiance referred to in this bill is permanent?

Mr. ADAMS. Yes.

Mr. SMITH of Kentucky. What objection can there be to accepting the proposition of the Secretary of State, and saying "permanent?"

Mr. ADAMS. That is the Secretary's opinion, but it adds no force. When this question was before the Committee the provision in this measure that the gentleman from Kentucky refers to was changed in the language of this bill so as to meet expressly the views of gentlemen on that side of the Chamber, and every member of the committee was perfectly satisfied with this bill. It is a unanimous report, and when it was discussed before the arguments in favor of this bill were made entirely by gentlemen on that side of the Chamber, as we thought it was the better way. Now, Mr. Speaker, I call for a vote on the bill.

Mr. OLMSTED. I wish to suggest an amendment, to which, I think, my colleague will agree.

The SPEAKER. Is it an amendment to the committee amendment?

Mr. OLMSTED. It is.

The SPEAKER. Does the gentleman from Pennsylvania yield to his colleague?

Mr. ADAMS. I yield.

The SPEAKER. The gentleman will send up his amendment. The Clerk read as follows:

Strike out, beginning with the word "owing," near the end of line 20, page 2, down to and including the word "verification," in line 23, and insert in place thereof the word "whomsoever."

The SPEAKER. The question is on agreeing to the amendment offered by the gentleman from Pennsylvania [Mr. OLMSTED].

Mr. CLARK. What is the amendment?

The SPEAKER. Without objection, the amendment will be reported again. The Chair hears no objection.

The Clerk read as follows:

After the word "persons," in line 20, page 2, strike out the words "owing allegiance, whether a citizen or not, to the United States, or to for any person claiming to be or designated as such in such passport or verification," and insert in lieu thereof the word "whomsoever."

Mr. OLMSTED. I would like to explain the amendment just a moment.

The SPEAKER. Does the gentleman desire to discuss the amendment?

Mr. OLMSTED. Yes, sir.

The SPEAKER. Does the gentleman from Pennsylvania yield to his colleague?

Mr. ADAMS. I do.

The SPEAKER. How much time?

Mr. ADAMS. Five minutes.

Mr. OLMSTED. This amendment is to that portion of the bill which provides penalties for violations of its provisions. It seems to me there has been a slight omission. There are two penal provisions. The first is where a passport is issued by any person not having the authority to issue a passport at all. It provides a penalty if any such unauthorized person shall issue a passport to a person owing allegiance to the United States. The second provision is that persons authorized to issue passports shall be punished if they issue passports to any persons not owing allegiance. My amendment simply provides that any person not authorized to issue passports shall be punished if he issues passports to any person whatever, whether owing allegiance or not. As the bill now reads, an unauthorized person may be punished for issuing passports to persons owing allegiance, but can not be punished for issuing them to persons not owing allegiance.

Mr. CLARK. I do not think the gentleman's amendment accomplishes the purpose he is seeking.

Mr. OLMSTED. It simply provides that any unauthorized person who issues passports to any one whomsoever shall be subject to the penalty.

Mr. DINSMORE. I would suggest to the gentleman the language according to section 2 of the bill is equally objectionable:

No passport shall be granted or issued to or verified by any other person than those owing allegiance, whether citizens or not, to the United States.

Mr. OLMSTED. That is all right. The bill provides that no person shall issue a passport to any person not owing allegiance. And then it provides that no person not having authority to issue a passport at all may be punished if he issues a passport to anybody who does owe allegiance. My amendment makes him liable if he issues a passport to anybody at all, whether owing allegiance or not.

Mr. SMITH of Kentucky. I would like to ask the gentleman from Pennsylvania a question.

Mr. ADAMS. I yield for a question.

Mr. SMITH of Kentucky. As I understand, the third section follows the present statute, with the exception that it strikes out "citizens of the United States" and inserts "persons owing allegiance to the United States."

Mr. ADAMS. It does.

The SPEAKER. The question is on agreeing to the amendment offered by the gentleman from Pennsylvania [Mr. OLMSTED].

The question was considered, and the amendment was agreed to.

The committee amendments as amended were agreed to. The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. ADAMS, a motion to reconsider the last vote was laid on the table.

PRIVATE CLAIMS.

Mr. GRAFF. Mr. Speaker, I move that the House now resolve itself into Committee of the Whole House for the consideration of bills on the Private Calendar, under the special order heretofore made.

The motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole House for the consideration of bills on the Private Calendar, with Mr. HOPKINS in the chair.

ELEANORA G. GOLDSBORO.

The first business on the Private Calendar was the bill (H. R. 10469) for the relief of Eleanora G. Goldsboro.

Mr. GRAFF. Mr. Chairman, the gentleman that reported this bill, who is a member of the committee, is not present, and the gentleman who introduced the bill is not present. I therefore ask that this bill be passed without prejudice.

The CHAIRMAN. Without objection, the bill reported will be passed without prejudice.

There was no objection.

MELLERT FOUNDRY AND MACHINE COMPANY.

The next business on the Private Calendar was the bill (H. R. 2492) to reimburse the Mellert Foundry and Machine Company for money retained by the United States for failure to complete a contract within a specified time.

The Clerk read the bill as follows:

Be it enacted, etc., That the sum of \$2,427.84 be, and is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of reimbursing the Mellert Foundry and Machine Company, Limited, of Reading, Pa., for money retained as a penalty by the United States by reason of a failure to complete a contract within a specified time.

Mr. GRAFF. Mr. Chairman, I yield to the gentleman from Pennsylvania [Mr. GREEN].

Mr. GREEN of Pennsylvania. Mr. Chairman, this is a bill which has been favorably reported upon by the committee and the Secretary of War. The matter was referred to Gen. Thomas L. Casey April 16, 1892, and he states as follows:

It can not be stated that the failure of the contractors to deliver the material on time caused any loss to the United States except as follows: Inspector's pay for one month and seven days, \$154.16, and master calker's pay for eight days, \$40; a total of \$194.16.

The contract was entered into July 12, 1890, and under the penalty clause \$2,622 was retained by the United States. Deducting from this amount the \$194.16, actual loss suffered by delay, there would remain in the Government's hands \$2,427.84, which, without exacting the pound of flesh, as per clause in the contract, would be equitably due the contractors.

Before acting upon the measure the committee deemed it advisable to refer the matter to the Secretary of War, asking for facts and information relative to the same; also an opinion of the War Department as to the merits of the case, and for opinion received the following reply:

"The Comptroller of the Treasury has decided in recent cases of a like kind that 'one of the recognized rules of construction applicable to this case is that when damages are easily ascertainable the sum mentioned as a forfeiture will usually be treated as a penalty, even if stated to be for liquidated damages (5 Comptroller Decisions, 317), and that the courts usually show a disposition to lean toward that construction which excludes the idea of liquidated damages and permits the party to recover only the damages which he has actually sustained.' (Comp. decision of Sept. 25, 1900.)

"In view of the above decisions of the Comptroller, it would appear, if this matter is to be settled without a judicial determination, that the proposed payment might be authorized by Congress without injustice to the United States, as the amount in question (\$2,427.84) represents a sum earned by the contractors over and above the actual loss or expense of the United States.

"JOHN M. WILSON,
"Brigadier-General, Chief of Engineers, U. S. A."

The penalty was a peculiar penalty. They were very large pipes and very small pipes, and the large pipes were got out first. This had reference to the laying of sewers. They got out the large pipes first, and there was slight delay on the small pipes, which were not ready to use by the time the contract expired, but they were furnished in time for the work to go on. The actual loss to the Government was only \$192.

If this case had been two or three months later, it never would have been here, because the ruling was immediately changed on this matter. Now, this is money that was deducted from really what belonged to these people under the contract, and was deducted, as I say, under these peculiar circumstances.

Mr. PAYNE. How long ago was this transaction?

Mr. GREEN of Pennsylvania. It was a few years ago—it was in 1892. This bill was passed by the last Congress and the Congress before that. It has not been reached before this session on the Calendar. This is the first time that we have had the opportunity to take it up before the House.

The bill was laid aside with a favorable recommendation.

ANGUS A. MCPHEE.

The next business on the Private Calendar was the bill (H. R. 367) for the relief of Angus A. McPhee.

The Clerk read the bill, as follows.

Be it enacted, etc., That the Treasurer of the United States pay to Angus A. McPhee the sum of \$676.85, the same being the amount of a certain judgment recovered by the United States against said McPhee on the 30th day of April, 1894, in the circuit court of the western district of Wisconsin, for \$616.85, and \$60 expended for costs by said McPhee in defending the action, and which judgment was paid in full by said McPhee, it being for the value of timber cut from certain lands in sections 1, 13, 11, and 23, township 45 north, of range 4, Ashland County, Wis., by said McPhee, and claimed by the United States, and which lands were subsequently determined by the Supreme Court, in the case of Wisconsin Central Railroad Company v. Forsythe, to be owned by the said railroad company under the grant of May 5, 1864.

Mr. GRAFF. Mr. Chairman, the facts of this case are that Congress by an act passed June 3, 1856, granted to the State of Wisconsin for railroad purposes alternate sections 6 miles on each side of the proposed railroad for railway purposes. By an act of Congress passed May 5, 1864, a similar grant was made for similar purposes alternate sections for a width of 10 miles.

After this legislation had been passed the railroad who came into the possession of the property leased the land and sold the pine timber located on the land, and then the United States set up a claim of title to the land as against the railroad company, who derived the title through this legislation I have referred to and through the investment of the men who cut the timber under authority obtained by the railroad company. He obtained a judgment in the United States court of \$676.85. I read from the report:

In the meantime one Forsythe, claiming that said lands were subject to public entry, made application to enter the same, and the title to the lands conveyed by the State of Wisconsin, through its governor, became involved, and the said Forsythe took steps to obtain said lands from the United States, and was confirmed in his right by the Secretary of the Interior. The Wisconsin Central Railroad Company brought an action of ejectment in the circuit court of the United States for the western district of Wisconsin for the purpose of determining its title to said lands, and the case finally reached the Supreme Court of the United States, and will be found reported as Wisconsin Central Railroad Company v. Forsythe (vol. 159, p. 46), and the opinion thereon was filed June 3, 1895; and in that case it was decided by the Supreme Court of the United States that the Wisconsin Central Railroad Company obtained the title to said lands and was the owner of the lands hereinbefore particularly described under said grant, thereby showing and proving that the said Angus A. McPhee obtained the legal title to said timber by his purchase aforesaid, and that the action brought against him was wrongly

decided; and he asks the United States now to return to him the money that he paid on the judgment and his necessary costs in defending said action, all of which at this time aggregates the sum of \$676.85.

This bill proposes simply to pay this man back the sum of money which was wrongfully adjudged against him, because the settling of the title in the railroad company confirmed his right to cut the timber on the land.

I move that the bill be laid aside to be reported to the House with a favorable recommendation.

The motion was agreed to.

ROBERT D. M'AFEE AND JOHN CHRATOVICH.

Mr. NEWLANDS. I ask unanimous consent for the present consideration of Senate bill No. 169, for the relief of Robert D. McAfee and John Chratovich; it is No. 1249 on the Private Calendar. I think it can be very quickly disposed of.

Mr. WEEKS. I object. I think we should follow the order of the House.

Mr. NEWLANDS. Then I move that the bill be taken up.

The question being taken on the motion of Mr. NEWLANDS, it was rejected.

W. J. TAPP & CO.

The next business was the bill (H. R. 1360) for the relief of W. J. Tapp & Co.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to W. J. Tapp & Co. the sum of \$240.10, as a refund of duties erroneously exacted on certain machinery for the manufacture of jute, at Louisville, Ky., in the year 1876.

Mr. GRAFF. I yield to the gentleman from Virginia [Mr. RIXEY] to explain this case.

Mr. RIXEY. Mr. Chairman, this bill was referred some years ago to the Committee on Ways and Means and by that committee reported favorably. It grows out of the fact that Tapp & Co. paid certain duties on what was known as jute machinery. The Secretary of the Treasury subsequently held that the duties ought not to have been collected. Tapp & Co. therefore procured the introduction of a bill for their relief, which was referred to the Committee on Ways and Means. That committee, after going over the whole subject, made this recommendation:

In view of the fact that the Supreme Court had decided that "a payment made to a public officer in discharge of a fee or tax illegally exacted is not such a voluntary payment as will preclude the party from recovering it back" (111 U. S., 22), your committee are of the opinion that the parties are entitled to the relief asked for, and recommend the passage of the accompanying bill.

I do not suppose it is necessary to read the report made in favor of this bill.

Mr. PAYNE. Is there a letter from the Secretary of the Treasury?

Mr. RIXEY. There does not seem to be any such letter. This report is based upon the report of the former Ways and Means Committee.

Mr. PAYNE. I understood the gentleman to say that the Secretary of the Treasury recommended the bill.

Mr. RIXEY. I said that a former Secretary of the Treasury, after the duty had been collected, held that it ought not to have been paid.

Mr. PAYNE. And this bill simply provides for the reimbursement of the amount of duty paid?

Mr. RIXEY. Yes. The amount is only \$240.

The bill was laid aside to be reported to the House with a favorable recommendation.

CHAMBLIN, DELANEY & SCOTT.

The next business was the bill (H. R. 989) to authorize the Light-House Board to pay to Chamblin, Delaney & Scott the sum of \$2,125.

The bill was read, as follows:

Be it enacted, etc., That the Light-House Board be, and it is hereby, authorized to pay to Messrs. Chamblin, Delaney & Scott, of the city of Richmond, State of Virginia, the sum of \$2,125 out of the appropriation for Marblehead light-house made by the Fifty-third Congress.

The amendments reported by the committee were read, as follows:

In line 5, after the words "the sum of," strike out "two thousand one hundred and twenty-five dollars" and insert \$1,704.46, in full for all claims against the United States on account of their contract for the metal work for the Marblehead, Mass., light station.

Amend the title so as to read: "A bill to authorize the Light-House Board to pay to Chamblin, Delaney & Scott the sum of \$1,704.46."

Mr. GRAFF. Mr. Chairman, the facts of this case are stated in a letter which will be found in the report:

TREASURY DEPARTMENT, Washington, D. C., April 11, 1900.

SIR: This Department has the honor to acknowledge the receipt of a letter from your committee dated March 5, 1900, inclosing a copy of H. R. bill 989, to authorize the Light-House Board to pay to Messrs. Chamblin, Delaney & Scott the sum of \$2,125, being the amount of the penalty charged against them for delay in delivery of the metal work for the Marblehead,

Mass., light station, and asking that your committee be furnished with information in the matter.

In reply the Department begs leave to state that the Light-House Board, to whom the matter was referred, reports as follows:

A contract was entered into between the before-named firm and the United States on June 25, 1895, for the metal work specified, in the total sum of \$8,700.00

The work to be completed on or before November 29, 1895. By Department authority the time for the completion of the metal work was extended to December 29, 1895. Penalty provided in the contract, \$25 for each and every day's delay after December 29, 1895. The work was actually completed and delivered March 23, 1896, after a delay of eighty-five days.

The cost of inspection from December 29, 1895, to March 23, 1896, was \$886.97

Payments were made to the contractors by the engineer of the Second light-house district on account of the contract in the total sum of 6,394.57

7,081.54

Balance unpaid 1,704.46

In other words, if the amount charged against this claimant—the amount of the expense which the Government actually incurred by reason of the delay—should be deducted, there would still be left the sum of \$1,704.46, which the United States withheld in excess of any damage really incurred.

The board states that the damage to the United States on account of the delay in the completion of the metal work for this light station consists wholly in the increased cost of inspection, amounting, as before stated, to \$886.97, which, being charged against the contractors, leaves an unpaid balance of \$1,704.46 due them.

For these reasons, in which the Department concurs, the board recommends that this H. R. bill be amended so as to reduce the amount from \$2,125 to \$1,704.46, and to add after the latter amount the words "in full for all claims against the United States on account of their contract for the metal work for the Marblehead, Mass., light station," and that as so amended the bill be passed.

The committee will notice that it would be a great hardship on these people to have deducted, as has been, the amount of \$1,704.46 on a contract which aggregated only \$8,786 for the entire work. I therefore move that the bill be laid aside with a favorable recommendation as amended by the Committee on Claims.

The CHAIRMAN. The Clerk will read the first amendment.

Mr. GRAFF. The amendments are in the report.

The Clerk read as follows:

In lines 5 and 6 strike out \$2,125 and insert \$1,704.46, and amend the title.

The CHAIRMAN. Without objection, the amendments proposed by the committee will be adopted.

There was no objection.

The bill was laid aside to be reported to the House with a favorable recommendation.

STEPHEN B. HALSEY.

The next bill on the Private Calendar was the bill (H. R. 10279) for the relief of Stephen B. Halsey, which the Clerk read, as follows:

Be it enacted, etc., That there be, and is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$50, to be paid to Stephen B. Halsey for the damage done to his dock at Astoria, Long Island, by the United States steamship Canby on August 21, 1899.

Mr. MADDOX. Mr. Chairman, is there no report with that bill? I think we ought to have somebody to explain these matters.

Mr. GRAFF. I yield to the gentleman from New York [Mr. STORM].

Mr. STORM. Mr. Chairman, the bill explains itself. It is to pay damages that were inflicted by a United States steamer to a dock at Long Island City. The estimate was that it would cost the Government \$60. The man had it done for \$50, and this is to reimburse him and pay this \$50.

Mr. MADDOX. I can not hear the gentleman. I do not know whether anybody else can or not.

Mr. GRAFF. Well, I will state that the claim is in the sum of \$50 for damages to a dock done by a vessel under the control of the United States, operated by the United States, although I believe the vessel did not belong to the United States. There is a whole volume of correspondence here which is incorporated in the report, and there is no question about the fact that the fault was on the part of those controlling the vessel and not the dock owner.

Mr. MADDOX. It is a unanimous report?

Mr. GRAFF. Yes.

Mr. MADDOX. Now, let me say this to the chairman of the committee, that I do not see a man on this side of the House representing the minority of that committee, and some of us want to know what we are voting for.

Mr. BUTLER of Pennsylvania. There is Mr. KITCHIN.

Mr. GRAFF. I will say to the gentleman that I have just yielded to the gentleman from Virginia, who is on that side of the House, and to the gentleman from Pennsylvania, who is on that side of the House, to explain bills.

Mr. MADDOX. The gentleman did not understand me. I say I see no member of his committee on this side of the House. There is no one here to say anything about it.

regard to the merits of the case, I have the honor to state that the *Charleston*, while on passage from Kasiguran to San Pio V., Kamiguin, Philippine Islands, on the morning of November 2, 1899, ran upon an unmarked and unknown shoal and was lost. The court of inquiry, convened by order of the commander in chief of the naval force on Asiatic station to inquire into the circumstances connected with the loss by grounding of the *Charleston*, found, inter alia, that every precaution required by the United States Navy Regulations was taken by the commanding officer to insure the safety of the vessel under his command against accident, and in its opinion no blame or responsibility for the accident to the vessel should be attributed to the officers and crew.

The commanding officer of the *Charleston*, in his report dated November 28, 1899, to the commander in chief, states: "I regretted very much the necessity for anybody to leave personal effects behind, but as the boats were deeply laden with the crew, arms, and ammunition, and provisions, and had about 18 miles to go, most of it in the open sea, I considered it necessary. The officers and crew deserve the greatest commendation for faithful and zealous work at this time, and their readiness to cheerfully leave personal effects." The circumstances, other than those hereinafter mentioned, attending the loss of the *Charleston* were such as would, under the provisions of the act approved March 2, 1895, entitle the officers and crew to reimbursement for the loss of their personal effects.

The Comptroller of the Treasury, in a decision dated January 22, 1901, held that as the *Charleston* was at the time of her loss engaged in cooperation with the land forces of the United States in the suppression of a local insurrection in the Philippine Islands, reimbursement for losses could not be made under the act by reason of its second proviso, "that this act shall not apply to losses sustained in time of war."

As the bill follows the lines of the general law on the subject of losses, and is similar to the act of March 30, 1898, to reimburse the survivors of officers and crew of the *Maine* for losses incurred by them, the Department perceives no objection to the bill and commends it to the favorable consideration of the committee.

Very respectfully,

JOHN D. LONG,
Secretary.

HON. JOSEPH V. GRAFF,
Chairman Committee on Claims, House of Representatives.

Your committee have added, by way of amendment, a fourth section, as suggested by the Secretary of the Navy, and with this amendment recommend that the bill do pass.

Mr. WRIGHT. Mr. Chairman, the wreck of the *Charleston* was caused by imperfect charts. The officers supposed they had some 5 miles leeway, and this bill remunerates the officers and crew for the loss incurred in that wreck. I think the precedent has been established in the matter of the wreck of the *Tallapoosa* and several other vessels, and unless other gentlemen desire to debate the bill I shall ask for a vote.

Mr. LOUD. Mr. Chairman, before this bill is voted on I want to make a few suggestions, if the gentleman yields the floor. I do not care to ask any questions. I want the floor to make a few suggestions before a vote is taken on this bill.

The CHAIRMAN. The Chair will recognize the gentleman from California.

Mr. LOUD. The gentleman from Georgia wants to ask a question.

The CHAIRMAN. That is a matter for the gentleman to decide.

Mr. MADDOX. Let the gentleman proceed.

Mr. LOUD. Mr. Chairman, some years ago I had some experience upon the Committee on Claims. At that time there were large accumulations of claims of this character which caused the committee some annoyance, because, I think, they wanted to do justice to the Government and justice to the men. My memory on the subject is—and if I am not correct I hope the Chairman will correct me—at that time we framed a law, or an amendment to a law that had been in existence for some years, fixing the amount of money which the officers might recover on account of the loss of a war vessel at sea. It is apparent from the reading of this bill that the officers and men of this ship have been paid the full limit of the law, and here is an attempt, an attempt made many times before, Mr. Chairman, sometimes successfully and other times unsuccessfully, but an attempt is made here to override a law that Congress many times has considered, because it became necessary for Congress to protect the Government against the actions of the officers of the Department.

Now, the only limitation put upon the amount of money allowed here is one year's sea pay. I do not know how much that may amount to in this case; but in some cases it might amount to twelve or thirteen thousand dollars. Now, then, by the passage of the law limiting the amount of allowance that may be made to officers and seamen, certain regulations prescribe the amount of clothing the officers and men shall and must have, and while it is not specifically in the law, yet it is generally understood that no officer or man shall take on board ship any more than the law provides that he shall have. Up to the amount of clothing the law permits the officer to have, this law reimburses him.

These officers and men come in after they have exhausted the remedy at law to say, "I had a dress suit costing me \$100; I had five dress suits; I had two dozen white shirts which cost \$4 or \$5 apiece;" I had this and that. You will see that a natural sympathy exists between one officer and another who must adjudicate these claims; you permit in this bill the allowance to a commander of that vessel—and I assume he was a commander—of \$3,000 or \$4,000 for personal wearing apparel. After Congress has spent so much time in the past in endeavoring to frame a law, and has

framed a law, to reimburse every officer and man for everything he should have on the ship, I do not believe Congress should make an exception in this case.

Mr. MADDOX. Will the gentleman allow me to ask him a question?

Mr. LOUD. Yes.

Mr. MADDOX. Do I understand you that the law has limited the liability of the Government to officers and seamen as to loss of clothing?

Mr. LOUD. Yes.

Mr. MADDOX. And this is for the excess?

Mr. LOUD. Yes. Evidently they have gone to the Department and got all the law permits them to have, and the law permits them to be reimbursed for all that is necessary for them to have at sea, all that they should have.

Mr. SHAFROTH. How much is that?

Mr. LOUD. I can not say. I took part in framing the bill when the gentleman from Pennsylvania [Mr. BRUMM] was chairman of the committee. I will say that we took carefully into consideration every article that every officer and man should have upon that vessel while at sea.

Mr. GRAFF. Will the gentleman yield to me a minute?

Mr. LOUD. Yes; certainly. I do not want to do an injustice to anyone.

Mr. GRAFF. I would not have the gentleman from California give a false idea of what this bill is.

Mr. LOUD. I do not mean to.

Mr. GRAFF. I want to suggest that the bill does say that the losses shall be of such a character and value as are suitable and appropriate to the rank, rating, and duty of the person offering such loss.

Mr. LOUD. I understand all that.

Mr. GRAFF. There is a limitation as to the amount.

Mr. LOUD. Yes; a year's sea pay. I do not think I have misstated anything. I want to state again to the gentleman that the committee at that time had this measure under consideration some months, because there was before the committee at that time twenty-five or thirty cases of this kind. In years that have gone by claims have been made in certain cases. As you all know, a case may be passed to-day that will not be passed to-morrow. Exceptions have been made, and the committee realized that it was necessary to lay down a law or a rule whereby these men could be reimbursed.

Mr. GRAFF. I want to say that I am not familiar with the laws pertaining to officers and seamen in the Navy, but I do know that the limitation for losses to those in the Army is practically as follows: Those articles which are useful and necessary in connection with the performance of their duties. That is the existing law with reference to the losses that occur in the Army. It seems to me that is almost the language in this bill as applied to the Navy.

Mr. LOUD. You make the limitations there one year's sea pay; that is, for a commander it might be three or four thousand dollars.

Mr. GRAFF. It does not follow that one year's sea pay is to be the basis.

Mr. LOUD. The result always is that they allow officers all that you permit them to allow. There is that natural sympathy between officers. We considered all these matters and framed a law, and now why not abide by it?

Mr. WRIGHT. Under the general law the man can receive one month's sea pay; that is the general law.

Mr. LOUD. Oh, no; the gentleman is entirely mistaken about that. The gentleman has not got the law. I have not got the law here, but there is an allowance for wearing apparel.

Mr. WRIGHT. That was fixed at a minimum, and any allowance that has been made to them is to be deducted from the amount carried by this bill. It is understood that under the regulations officers have to provide themselves with everything they need while on the voyage, both on sea and on shore. They are obliged to have civilian's clothes when on shore leave and to attend social functions. They also have to have their uniform. This is not a new thing. The officers and crew of the *Kearsarge* and of the *Maine* and other vessels have been reimbursed for such losses, so that this is not inaugurating any new policy. The sufferers of the steamship *Ashuelot*, wrecked in the China Sea, were likewise reimbursed. Similar bills have been passed for the relief of naval officers, giving precisely the same relief as in this bill.

The act of March 2, 1885—the one referred to, I believe, by the gentleman from California—says that the act shall not apply to losses incurred in time of war. Is that the one that the gentleman referred to?

Mr. LOUD. Oh, no.

Mr. WRIGHT. I feel that there would be great injustice done to these people if they were not allowed something for the losses

Patterson, for the sum of \$2,680.21, being in payment for electrical supplies furnished the United States Navy Department; and

Whereas said check was, on the said 5th day of February, 1901, mailed by the said Henry M. Denniston to Stanley & Patterson, at 32 Frankfort street, New York City, N. Y., and was lost in transmission through the mails and has never been received by the said Stanley & Patterson; and

Whereas the provision of the act of February 16, 1885, amending section 3646, Revised Statutes of the United States, authorizing United States disbursing officers and agents to issue duplicates of lost checks, apply only to checks drawn for \$2,500 or less; Therefore,

Be it enacted, etc., That said Henry M. Denniston, or his successor in office, be, and hereby is, instructed to issue a duplicate of said original check to Stanley & Patterson, under such regulations in regard to its issuing and payment as have been prescribed by the Secretary of the Treasury for the issuing of duplicate checks under the provision of section 3646, Revised Statutes of the United States.

Mr. PAYNE. I suppose the usual safeguard in the way of bonds is provided for in this bill.

Mr. TOMPKINS of New York. It provides for the giving of bond?

Mr. GRAFF. Yes, sir.

The bill was ordered to be laid aside with a favorable recommendation.

AARON VAN CAMP AND VIRGINIUS P. CHAPIN.

The next business on the Private Calendar was the bill (H. R. 1114) for the relief of the heirs of Aaron Van Camp and Virginius P. Chapin.

The bill was read, as follows:

Be it enacted, etc., That the claim of Aaron Van Camp and Virginius P. Chapin against the United States (Congressional case No. 1049), the findings of fact in which were transmitted to the House of Representatives by House Miscellaneous Document No. 81, Fifty-first Congress, second session, is hereby referred to the Court of Claims, to hear and determine the question of the liability of the United States for the losses found by said court in its said sixth finding of fact, with jurisdiction to hear and determine the same upon the principles of law and equity and in compliance with the rules and regulations of said court.

And in the event the said court shall be of the opinion that the United States are justly liable, under all the circumstances of the said case, for the losses and damages sustained by the said decedents by reason of the acts of their officers in the premises, the said court shall render judgment in favor of the claimants for the amount found to be due by its sixth finding of fact in the said Congressional case No. 1049, as set forth in the report of the said court to the Speaker of the House of Representatives on January 8, 1891: *Provided*, That no statute of limitations shall be pleaded in bar of the recovery of said claim: *And provided further*, That in determining the question of the liability of the United States the said court shall consider the testimony submitted to it in the investigation of said Congressional case No. 1049, together with all affidavits, documents, and reports of Congressional committees touching the question of liability of the United States and heretofore filed in any of the departments of the Government; also the reports of officers of the State and Treasury Departments of the United States in the settlements of accounts of the officers of the United States in connection with the said claim.

And furthermore, that if the judgment shall be rendered against the United States for the amount found and fixed by said court in said sixth finding of fact, to wit, the sum of \$60,100, the same shall be paid, out of any money in the Treasury of the United States not otherwise appropriated, to the legal representatives of the said Aaron Van Camp, deceased, and the said Virginius P. Chapin, deceased, as their respective interests may appear, and the new action to be brought under the provisions of this act shall be in the name of said legal representatives.

The amendments recommended by the committee were read, as follows:

Strike out the word "justly" in line 2, page 2, and insert "legally." Strike out all between lines 10 and 23 on page 2, commencing with word "Provided," in line 10.

Mr. PAYNE. Mr. Chairman, I am a little curious to know what was in this Congressional case No. 1049, recited so often in the bill. I have learned that there is \$60,000 in it, and I want to know what else there is in it.

Mr. GRAFF. I must confess, Mr. Chairman, that I am not familiar with the facts in this claim. I was not present when the committee reported the bill. I think the gentleman from Vermont [Mr. FOSTER] made the report, and he is not present at this time.

Mr. PAYNE. I suppose it had better be passed over.

Mr. WEEKS. I thought Mr. SALMON made that report.

Mr. GRAFF. The gentleman from Vermont [Mr. FOSTER] made the report. I ask that it may be passed without prejudice.

The CHAIRMAN. Unanimous consent is asked that the bill just read by the Clerk be passed without prejudice. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

OFFICERS AND CREW OF THE U. S. S. CHARLESTON.

The next business on the Private Calendar was the bill (H. R. 5776) for the relief of the officers and crew of the U. S. S. *Charleston*, lost in the Philippine Islands November 2, 1899.

The bill was read, as follows:

Be it enacted, etc., That to reimburse the officers and crew of the U. S. S. *Charleston*, destroyed on a coral reef off Camiguin Island, in the Philippines, November 2, 1899, for losses incurred by them, respectively, in the destruction of said vessel, there shall be paid to each of said officers and crew or to the personal representatives of any which may be deceased, out of any money in the Treasury of the United States not otherwise appropriated, a sum equal to the losses so sustained by them: *Provided*, That the accounting officers of the Treasury shall in all cases require a schedule and certificate from each person making a claim under this act, such schedule to be approved by the Secretary of the Navy, who may require other satisfactory proof of said losses, and reimbursements shall be made for such losses as are of a character

and value suitable and appropriate to the rank, rating, or duty of the person suffering such loss: *Provided, however*, That in no case shall the aggregate sum allowed any claimant or person for such loss exceed the amount of twelve months' sea pay (without rations) of the grade or rating held by such person at the time the losses were incurred, and there shall be deducted therefrom any sum heretofore paid any of them under section 290 of the Revised Statutes.

Sec. 2. That the relief granted by the provisions of this act shall be in full satisfaction of any and all claims whatever against the United States on account of losses by the destruction of the U. S. S. *Charleston*, and any claim which shall be presented and acted upon under the authority of this act shall be held to be finally determined, and shall not in any manner thereafter be reopened, reconsidered, supplemented, nor be subject to appeal in any form.

Sec. 3. That no claim for losses by reason of the destruction of said vessel not heretofore presented shall be allowed under the provisions of this act which shall not be presented within two years after the date of its passage.

The amendment recommended by the committee was read, as follows:

Add as an additional section the following:

"Sec. 4. That any amounts that have been paid under sections 288, 289, and 290 of the Revised Statutes shall be deducted in the settlement of all claims under this act."

Mr. GRAFF. Mr. Chairman, I yield to the gentleman from Pennsylvania [Mr. WRIGHT].

Mr. WRIGHT. Mr. Chairman, I would ask for the reading of the report of the committee, which goes into the facts.

The CHAIRMAN. The report will be read as a part of the remarks of the gentleman from Pennsylvania.

The report (by Mr. SALMON) was read, as follows:

The Committee on Claims, to whom was referred the bill (H. R. 5756) for the relief of the officers and crew of the U. S. S. *Charleston*, lost in the Philippine Islands November 2, 1899, beg leave to submit the following report and recommend that said bill do pass with an amendment:

This is a bill enacting that to reimburse the officers and crew of the U. S. S. *Charleston*, destroyed on a coral reef off Camiguin Island, in the Philippines, November 2, 1899, for losses incurred by them, respectively, in the destruction of said vessel, there shall be paid to each of said officers and crew, or to the personal representatives of any who may be deceased, out of any money in the Treasury of the United States not otherwise appropriated, a sum equal to the losses so sustained by them.

The facts regarding the losses referred to are as follows: On November 2, 1899, about 6 p. m., this ship, *Charleston*, was wrecked upon an uncharted reef about 12 miles off Camiguin Island, in the Philippines. The charts and sailing directions furnished the captain of the vessel indicated that there was a clear channel 6 miles in width at the point where the accident occurred. The vessel had a large hole opened in the bottom by striking the reef and the in-rushing water quickly put out the fires, so that there was no steam to run the dynamo, thus making complete darkness below deck. This, together with the short time allowed the officers and crew for getting the boats launched and getting away from the fast-sinking ship, prevented them from securing their clothing and other property.

The *Charleston* was lost by reason of imperfect charts furnished its officers. These charts were furnished by the Government through the Bureau of Navigation, and, while being the best then to be had, were misleading, and by reason thereof the officers and men sustained a loss which your committee believes should be borne by the Government instead of by the unfortunate individuals.

A court of inquiry to examine into the matter of the loss of the *Charleston* was convened, which reported that the evidence before it showed that every precaution was taken to insure the safety of the vessel against accident; that proper lookouts were stationed; leadsmen were in both chains keeping the leads in constant use; that the captain and navigator were on the bridge; that the charts furnished by the Bureau of Navigation showed clear water where the ship struck; and that the sailing directions gave no information of any danger to navigation in that immediate locality, and exonerated the officers from all blame or responsibility for the accident.

A bill similar to the one under consideration was introduced during the last Congress and referred to the Committee on Claims, but owing to the lateness of the term when the same was introduced no report was made by the committee.

The following communications from the Secretary of the Navy regarding the loss of the *Charleston* have been received by your committee:

NAVY DEPARTMENT,
Washington, February 13, 1902.

SIR: The Department is in receipt of your letter of the 15th instant, inclosing copy of bill (H. R. 5756) "for the relief of the officers and crew of the U. S. S. *Charleston*, lost in the Philippine Islands November 2, 1899," and requesting to be furnished with the facts as determined by the court of inquiry and such other information in its possession which may be deemed pertinent to a careful consideration of this matter.

In reply I have the honor to transmit herewith copy of a letter dated February 7, 1901, addressed to the chairman of the Committee on Claims, House of Representatives, expressing its views in regard to a similar measure (H. R. 13017), in the Fifty-sixth Congress.

It is learned that claims of some officers and men of the *Charleston* have been adjusted, and under sections 290 and 288 of the Revised Statutes have been paid—to officers one month's pay and to enlisted men \$60. It is therefore suggested that the proposed measure be amended by providing that the amounts which have been paid to persons in the naval service under said sections, or to their heirs under section 289, shall be deducted in the settlement of all claims under this act.

A form of an additional section, to be added at the end of the bill for this purpose, is transmitted herewith.

The report of the court of inquiry convened to inquire into the circumstances attending the loss of the *Charleston* has been bound with a number of other records into a large volume, which will be sent to your committee at such time as may suit its convenience, in charge of an official from this Department, who will aid it in its examination.

Very respectfully,

JNO. D. LONG,
Secretary.

HON. JOSEPH V. GRAFF,
Chairman Committee on Claims, House of Representatives.

NAVY DEPARTMENT,
Washington, February 7, 1901.

SIR: Referring to the bill (H. R. 13017) "for the relief of the officers and crew of the U. S. S. *Charleston*, lost in the Philippines November 2, 1899," and to your request of the 5th instant for facts, information, and opinion in

was to draft a careful amendment to the bill and refer the matter to the Court of Claims for a full examination, with the right of appeal by either party.

I move that the bill when amended be laid aside with a favorable recommendation.

The CHAIRMAN. The question is on agreeing to the amendment recommended by the committee.

The amendment was agreed to.

The bill as amended was ordered to be laid aside to be reported to the House with a favorable recommendation.

JOHN A. MASON.

The next business was the bill (H. R. 1733) for the relief of John A. Mason.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to credit the accounts of John A. Mason, collector of internal revenue for the second collection district of New York, with the sum of \$430,249.81, being the value of internal-revenue stamps destroyed by fire at the office of said collector, No. 114 Nassau street, New York, N. Y., on the night of February 11, 1898.

The CHAIRMAN. The question is on laying this bill aside with a favorable recommendation.

Mr. PAYNE. Mr. Chairman, this is a pretty large claim, and I should like to have a word of explanation about it.

Mr. GRAFF. While it appears on its face to be large, it simply relates to the destruction by fire of a lot of internal-revenue stamps, and there is a recommendation here by G. W. Wilson, Commissioner of Internal Revenue, on some two or three different occasions, and by O. L. Spaulding, Acting Secretary of the Treasury, on another. I will read the one from Mr. Spaulding.

Mr. PAYNE. Will you not read the one from Mr. Wilson?

Mr. GRAFF. I will read the one from General Spaulding and then the one from Mr. Wilson:

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, May 23, 1900.

SIR: I have the honor to transmit herewith copy of a letter of the Commissioner of Internal Revenue, calling attention to a bill for the relief of John A. Mason, late collector of internal revenue for the second district of New York, for \$430,249.81, the sum being the value of internal-revenue stamps destroyed by fire.

You will notice that the Commissioner recommends the speedy passage of the bill; and in this recommendation I concur.

Respectfully,

O. L. SPAULDING,
Acting Secretary.

Hon. JOSEPH V. GRAFF,
Chairman Committee on Claims, House of Representatives.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, May 26, 1900.

SIR: A bill is pending in Congress for the relief of John A. Mason, late collector of internal revenue of the second district of New York, for the sum of \$430,249.81, the same being the value of internal-revenue stamps destroyed by fire in the office of the collector of the second district of New York during Mr. Mason's term of office. In view of the fact that Congressional action must be taken before accounts of Mr. Mason pending in this Department can be adjusted, and the further fact that such action is eminently just and proper, I have the honor to respectfully recommend the speedy passage of the bill for the relief of Mr. Mason, in order that his accounts pending in this Department may be properly adjusted.

Respectfully,

G. W. WILSON,
Commissioner.

The SECRETARY OF THE TREASURY.

Mr. SULZER. Mr. Chairman, just a word or two, supplementary to what the gentleman from Illinois has said. Mr. John A. Mason was an internal-revenue collector in one of the districts in New York City. The building in which he had his office was owned by the late Vice-President of the United States, Hon. Levi P. Morton. It was burned, and in the conflagration the stamps of the Government were destroyed. This bill is simply to settle the accounts on the books of the Treasury Department. The Government has substantially lost nothing, but the Treasury Department can not settle the matter of the stamp account until this bill passes. That Department has recommended the passage of this bill, the committee has unanimously reported it to the House, and it is in all respects unobjectionable. There can be no objection to it, and it should pass without division. I am familiar with the matter, and if anyone desires more information I will be glad to give it.

The bill was ordered to be laid aside to be reported to the House with a favorable recommendation.

F. R. LAUSON.

The next business was the bill (H. R. 807) for the relief of F. R. Lauson.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Treasury is hereby authorized to issue to F. R. Lauson, of Tionesta, Pa., a duplicate of United States 4 per cent bond No. 10044, the original having been burned; but before issuing said duplicate bond the Secretary of the Treasury shall take from said Lauson a bond in the sum of \$300, with two satisfactory sureties, conditioned to indemnify the United States against said original bond No. 10044, and all claims therein.

The following amendment recommended by the committee was read:

Strike out all after the enacting clause and insert the following:

"That the Secretary of the Treasury be, and he is hereby, authorized and directed to issue to F. R. Lauson, Tionesta, Pa., a duplicate in lieu of a United States 4 per cent coupon bond, funded loan of 1907, No. 100044, for \$100, with interest coupons attached dated January 1, 1887, and subsequently, said bond and interest coupons alleged to have been destroyed: *Provided*, That the said F. R. Lauson shall first file in the Treasury a bond in the penal sum of double the amount of the destroyed bond and the interest thereon from January 1, 1887, to the date of its maturity, with good and sufficient sureties, to be approved by the Secretary of the Treasury, with condition to indemnify and save harmless the United States from any claim on account of the said destroyed bond and interest coupons."

The amendment recommended by the committee was agreed to.

The bill as amended was ordered to be laid aside to be reported to the House with a favorable recommendation.

PATRICK NOLAN.

The next business was the bill (H. R. 6443) for the relief of Patrick Nolan.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Patrick Nolan, of Newport, R. I., the sum of \$34.20, in full compensation for damages caused to the property of said Nolan by a runaway team belonging to the United States Government on November 6, 1899.

Mr. PAYNE. Mr. Speaker, in this case the amount is small; but I think there ought to be some reasons stated for paying even that amount. A man is not always responsible for damages done by a runaway team.

Mr. GRAFF. I have the report here, and it will probably delight the gentleman to know that the report is six pages long, and that there is a letter here from the Secretary of War, and from the claimant, from Capt. Charles G. Treat, captain, Second Artillery, and from Capt. W. P. Stone, captain, Seventh Artillery. The claim has gone through all the various military channels.

Mr. PAYNE. Does any of this mass of evidence show any carelessness or negligence on the part of any agent or servant of the United States?

Mr. GRAFF. I will read you the letter of Capt. W. P. Stone, which appears in the correspondence of the War Department:

LIGHT BATTERY C, SEVENTH ARTILLERY,
Fort Adams, R. I., November 24, 1899.

Respectfully returned to the adjutant.

On November 6, 1899, Corporal John McKenzie, Light Battery C, drove a team to Newport to take to the station the box of Private Low, of this battery, who had been transferred to the Signal Corps and ordered to Fort Myer.

After Private Low had gotten out of the wagon and his box had been removed, and while Corporal McKenzie was in his seat and holding the reins, the team bolted from a halt. One of the lines got caught, probably under the end of the pole, and broke. Corporal McKenzie fell from his seat, but continued to hold the lines, allowing himself to be dragged for more than a block, when he succeeded in stopping the team. Corporal McKenzie borrowed a pair of lines and returned the team to the post, reporting on arrival to me and relating the facts as above stated. He was considerably bruised and shaken, but wanted to return immediately to town to return the borrowed lines and report to the owner of the damaged property. He did so, but could not find the owner of the property.

He has been on furlough since November 15, and will be in Topeka, Kans., from November 26, for about fifteen days, as a witness in a case before the United States circuit court. I was satisfied from Corporal McKenzie's statement, on account of his character, which is excellent in every respect, that he had done his full duty and was in no way to be blamed for the accident, and so informed him at the time.

On receipt of the inclosed letter from W. H. Mowrey I publicly commended Corporal McKenzie to the battery for his bravery and devotion to duty. From the circumstances and the soldier's uniform carefulness and efficiency, I conclude that there was no fault or negligence on his part.

W. P. STONE,
Captain, Seventh Artillery, Commanding Battery.

I had not the pleasure of being at the meeting of the committee at which this bill was reported. It was reported by Mr. OTEY. So far as the amount of damages is concerned, the War Department made a thorough examination of it, and there appears a three-page affidavit as to the items in the bill.

Mr. PAYNE. I was not asking about the amount. I was only trying to have it ascertained whether the Government was in any way liable. What the gentleman has read so far goes to show that it was not.

Mr. GRAFF. I was not there, and I will leave the consideration of the bill to the House.

Mr. PAYNE. There does not seem to be any reason for paying that small bill, so far as the report shows.

The bill was ordered to be laid aside with a favorable recommendation.

STANLEY & PATTERSON.

The next business on the Private Calendar was the bill (H. R. 11591) for the relief of Stanley & Patterson, and to authorize a pay director of the United States Navy to issue a duplicate check.

The bill was read, as follows:

Whereas it appears that Henry M. Denniston, pay director in the United States Navy, did, on the 5th day of February, 1901, make and issue a check, numbered 450714, bearing date of the said 5th day of February, 1901, upon the assistant treasurer of the United States at New York, in favor of Stanley &

Mr. GRAFF. I would be glad to see the gentlemen here.

Mr. STORM. There is Mr. KITCHIN.

The CHAIRMAN. The question is on laying the bill aside with a favorable recommendation.

The question was taken; and the bill was laid aside to be reported to the House with a favorable recommendation.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. HEPBURN having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. PARKINSON, its reading clerk, announced that the Senate had passed without amendment bill and joint resolution of the following titles:

H. R. 10995. An act to regulate the introduction of eggs of game birds for propagation; and

H. J. Res. 192. Joint resolution fixing the time when a certain provision of the Indian appropriation act for the year ending June 30, 1903, shall take effect.

The message also announced that the Senate had passed with amendments joint resolutions of the following titles; in which the concurrence of the House of Representatives was requested.

H. J. Res. 113. Joint resolution authorizing the use and improvement of Governors Island, Boston Harbor; and

H. J. Res. 172. Joint resolution authorizing the Secretary of War to loan to the Morgan Memorial Association, of Winchester, Va., certain Revolutionary trophies at Allegheny Arsenal, Pittsburgh, Pa.

The message also announced that the Senate had passed bill of the following title; in which the concurrence of the House of Representatives was requested:

S. 5213. An act providing for the selection and retirement of medical officers in the Army.

BRITISH STEAMSHIP FOSCOLIA.

The committee resumed its session.

The next business on the Private Calendar was the bill (H. R. 5121) for the relief of the owners of the British ship *Foscolia* and cargo, which the Clerk read, as follows:

Be it enacted, etc., That the claim of the owners of the British steamship *Foscolia*, sunk by collision with the U. S. S. *Columbia* on the evening of May 28, 1898, near Fire Island light-ship, for and on account of the loss of said vessel and cargo, may be submitted to the United States district court for the southern district of New York, under and in compliance with the rules of said court sitting as a court of admiralty; and said court shall have jurisdiction to hear and determine and to render judgment thereupon: *Provided, however*, That the investigation of said claim shall be made upon the following basis: First, the said court shall find the facts attending the loss of the said steamship *Foscolia* and her cargo; and second, if it shall appear that the responsibility therefor rests with the U. S. S. *Columbia*, the court shall then ascertain and determine the amounts which should be paid to the owners, respectively, of the *Foscolia* and her cargo, in order to reimburse them for the losses so sustained, and shall render a decree accordingly: *Provided further*, That the amounts of the losses sustained by the master, officers, and crew of the *Foscolia* may be included in such decree.

SEC. 2. That should such decree be rendered in favor of the owners of the *Foscolia* and her cargo, the amount thereof may be paid out of any money in the Treasury not otherwise appropriated.

The bill was laid aside to be reported to the House with a favorable recommendation.

GEORGE A. ROGERS.

The next business on the Private Calendar was the bill (H. R. 6703) for the relief of George A. Rogers.

The Clerk read as follows:

Be it enacted, etc., That there be appropriated, out of money not otherwise appropriated in the Treasury of the United States, the sum of \$1,951.01, to pay the damages inflicted upon George A. Rogers, a contractor with the Government, while drilling from the lighter Daylight, in the East River, New York Harbor, said damages being occasioned by the running of the United States torpedo boats at an unwarranted and illegal rate of speed.

The bill was laid aside to be reported to the House with a favorable recommendation.

HENRY THIEMAN AND WHITE FROST.

The next business was the bill (H. R. 9579) for the relief of Thierman & Frost.

The bill was read, as follows:

Be it enacted, etc., That it be lawful for Henry Thierman and White Frost, late partners, doing business as Thierman & Frost, to institute an action against the United States in the Court of Claims for the recovery of such sum as they may in said action show themselves entitled to by reason of the seizure and sale of their distillery, located at Concordia Landing, in the county of Meade, State of Kentucky, the United States hereby waiving the defense of limitation, but reserving to themselves all other defenses.

The amendment was read, as follows:

Strike out all that has been read and insert the following:

"That jurisdiction is hereby given the Court of Claims, any statute of limitations to the contrary notwithstanding, to hear, try, and determine the claim of Henry Thierman and White Frost, late partners, doing business under the firm name and style of Thierman & Frost, by reason of the alleged unlawful seizure and sale by the revenue officers of the United States of the distillery property of the said Thierman & Frost in Concordia, in the State of Kentucky; and the said court shall have full power to determine whether said property was unlawfully seized and sold; and if the same were unlawfully seized or sold, then the said court shall try and determine whether, under the then existing laws of the United States, the said Thierman & Frost sustained any damages by reason thereof and whether the Government is or was liable under such laws for the damages sustained, limiting such damages

to the reasonable value of the property seized and sold at the time of such seizure and sale; said case to be tried and determined under the laws, rules, and regulations governing proceedings in said court and upon such evidence as is legally admissible under the ordinary laws and rules of evidence as pursued in the practice of said court, hereby reserving to the Government the right to interpose any defense, whether legal or equitable, that it may have to said cause of action, except only the defenses based on the jurisdiction of the court and the statute of limitations: *Provided, however*, That said action shall be commenced within six months after this act shall go into effect: *And provided further*, That in said action the said court shall try and determine the question, notwithstanding any adjudication that may heretofore have been had, whether at the time of said seizure and sale there was any special tax due or owing by the said Thierman & Frost to the Government of the United States pertaining to said distillery, or growing out of the operation of the same, or on the output or product thereof; and if any such tax was then due or owing to the Government of the United States, the said court shall determine the amount thereof and apply the same as a set-off to any amount that may be found to have been due the said Thierman & Frost as damages sustained by them by reason of the wrongful seizure and sale of said distillery property, and shall only enter a judgment in favor of the said Thierman & Frost for such balance, if any, as may be found to be due after applying as an offset any tax as aforesaid that may be found to be due without awarding any interest to either party: *And provided further*, That either party to such action shall have the right of appeal to the Supreme Court of the United States under the rules, laws, and regulations governing appeals in other cases from the Court of Claims."

Mr. MADDOX. Mr. Chairman, I call for the reading of the report on that bill.

The CHAIRMAN. Without objection, the Clerk will read the report.

Mr. GRAFF. I would say to the gentleman that the larger portion of the report is the amendment which is incorporated in the report. It is simply that the claimants are residents of Louisville, Ky. The matter was examined into carefully by Judge THOMAS and Mr. Otey, of Virginia. Judge THOMAS is not here, and Mr. Otey, as the gentleman knows, has passed away. It is simply a reference to the Court of Claims for the adjudication of this matter and was very carefully considered.

Mr. MADDOX. I have no reason to doubt that, but I think there ought to be something on record here to show what we are doing.

Mr. GRAFF. Well, the gentleman does not desire to have that amendment reread?

Mr. MADDOX. No; if you make a statement of these matters as we come to them, as I suggested, I think it will be satisfactory.

Mr. GRAFF. I am willing to do that whenever called upon.

Mr. MADDOX. I think we ought to have some explanation as we go along.

Mr. GRAFF. I think I can shorten the matter by giving that portion of the report that does not include the text of the amendment. This bill has been pending in Congress for a good many years, and has been reported at various times. The Judiciary Committee of the House, in the Forty-seventh Congress, to whom the petition of Thierman & Frost was referred, reported as follows:

Henry Thierman and White Frost, the claimants, were distillers in Kentucky, and were assessed a deficiency bond, for per diem and special tax, of \$29,100.75, from December 8, 1868, to May 23, 1869. Payment of the assessments having been refused, the distillery property was distrained. Suits were also brought on their distiller's bonds. The property was sold on distraint in July, 1870, for \$1,000, from which \$889 was realized as the net amount above cost and expenses.

Out of these net proceeds \$438.35 was applied to the payment of an amount due for warehouse stamps, and the remainder to February, 1869, list assessments. The property sold was assessed at \$4,000. In March, 1874, the suits on the bonds came to trial. The United States attorney having erroneously claimed in his declaration the whole sum due as deficiency tax, and failing to prove that a copy of the survey had been delivered to the defendants, judgment was rendered in their favor. In one of the suits, however, judgment was rendered against Henry Thierman for \$100, but not against his sureties, on which execution was entered and returned nulla bona.

The petitioners ask for compensation for the value of their property sold under the distress on the ground that the subsequent judgments show that the taxes were illegal and the distress and sale void, and that the Government ought to make reparation for the damages resulting from the illegal seizure and sale. In support of their claim to establish the amount of damages they rely upon affidavits asserting a large speculative value in the property.

The Commissioner of Internal Revenue reports to the committee that in this case no appeal was taken against the assessment or collection, nor any suit ever brought to recover back the tax alleged to have been illegally assessed and collected, nor did the petitioners offer to pay the taxes and charges, or to redeem the land after the sale by paying, as is required, only the amount for which the property was sacrificed, as is alleged. The claimants have failed to pursue any of the remedies provided by law; they come directly to Congress for relief. (See House Report No. 510, Forty-fourth Congress, first session.)

A careful examination of the records in the Internal Revenue Bureau shows that the petitioners claimed in 1869 exemption from the deficiency tax for the following, among other reasons: In this, that the estimate of the yield of the distillery per bushel of grain was too high in view of the fact that their machinery was old and defective; that there was an insufficient water supply; that a series of breakages caused suspensions aggregating thirty-eight days and six hours, for which no allowance was made then.

They did not claim their suspensions were legal suspensions. In the affidavits filed by the petitioners with the Commissioner they admitted their liability for the amount against them, but alleged that if an allowance was made for the thirty-eight days and six hours' time lost by suspension, occasioned, as they say, by unavoidable accidents, the assessments against them would be reduced some \$18,207.50, and the balance of \$11,067.50 they offered to pay. And they stated the account thus:

And then follows the account. Now, it can be seen that in regard to this claim, which involves complex facts and the examination of the law, the best thing that this committee could do

that point, and the gentleman from Illinois will ask unanimous consent to withdraw the bill.

Mr. BARTLETT. I do not want to make the point of no quorum, but I undertook to find out about the bill and was ruled out. Members must be decent about this.

Mr. IRWIN. I rose, Mr. Chairman, to explain about the bill, but did not succeed in getting the attention of the Chair. I would like to ask, Mr. Chairman, the privilege of stating the facts about the bill.

The CHAIRMAN. Unanimous consent is asked that the gentleman from Kentucky be permitted to address the committee on this bill.

Mr. BARTLETT. I have no objection to that.

Mr. IRWIN. The gentleman can raise the point of no quorum afterwards.

Mr. BARTLETT. I understood the gentleman from New York to say that if I would withdraw the point of no quorum the gentleman from Illinois would withdraw the bill. I am perfectly willing to do that. I have no objection to the gentleman from Kentucky being heard either.

Mr. PAYNE. I ask the gentleman to withdraw the point and then the gentleman from Kentucky can explain his bill.

The CHAIRMAN. Is there objection to the request of the gentleman from New York? [After a pause.] The Chair hears none.

Mr. BARTLETT. Has unanimous consent been asked to withdraw it?

The CHAIRMAN. Unanimous consent is asked for its consideration.

Mr. BARTLETT. Unless I know some reason why the bill should be taken up out of order I shall object.

Mr. PAYNE. I suggest that the gentleman reserve his objection.

Mr. BARTLETT. I have no objection to reserving it.

Mr. IRWIN. Mr. Chairman, the only reason that I have asked that this bill be taken out of its order is this: There was a book of special-tax stamps for "worms manufactured" that was received by the collector of internal revenue and charged against him. The affidavits are filed with the report, showing that this book of stamps was destroyed, and he is still charged with them. The Treasury Department is now urging him to settle his account, and the Commissioner of Internal Revenue says that the only way he can have relief is by a special act of Congress. I introduced this bill. I explained the circumstances of the case fully to the Speaker and to the chairman of the committee—that the settlement of this man's account is being held up on account of this matter of \$200, the value of the book of stamps lost and never used.

By the passage of this bill no money at all goes out of the Treasury. It is simply a matter of bookkeeping—to relieve this man from the payment of \$200 for stamps which were destroyed and lost. I asked the Speaker for the privilege of calling the bill up out of its order, and he said he thought it proper that the chairman of the committee should ask it, and he hoped he would do so. The consideration of this case will not take more than a moment. Here is the report, and here are the affidavits, which show that this book of stamps was lost. The passage of this bill is important in order that the ex-collector's accounts may be promptly settled.

Mr. BARTLETT. Do I understand the gentleman to say that the Commissioner of Internal Revenue has recommended the passage of this bill?

Mr. IRWIN. Yes, sir. At least the letter of the commissioner is embraced in the report of the committee, and it suggests the introduction of a special act as the only means of relief. The report of the committee was unanimous in favor of the bill.

Mr. CANDLER. How was this book lost—in passing through the mails?

Mr. IRWIN. No; it was received, but was covered up in some waste paper and by mistake was taken down into the cellar at the custom-house and burned.

Mr. CANDLER. Then the collector received this book of stamps?

Mr. IRWIN. Yes, sir.

Mr. CANDLER. And after he had received the stamps, they were burned by mistake?

Mr. IRWIN. Yes, sir—destroyed as shown by the affidavits.

Mr. CANDLER. And this man got no benefit from the stamps?

Mr. IRWIN. No benefit whatever.

There being no objection, the bill was laid aside to be reported favorably to the House.

JOHN DONAHUE.

The next business was the bill (H. R. 10142) for the relief of John Donahue.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to John Donahue, of Emmett, St. Clair County,

Mich., out of any money in the Treasury not otherwise appropriated, the sum of \$1,074.14, due him in lieu of 40 acres of land patented to him by the United States and afterwards granted by the United States to the State of Michigan, causing a loss to the said John Donahue of the above-mentioned sum, and that interest at 6 per cent per annum be added from the date of the conveyance to the State of Michigan.

The amendment reported by the Committee on Claims was read, as follows:

Strike out all after the word "sum," in line 11, down to and including the word "Michigan," in line 13.

Mr. WEEKS. Mr. Chairman, this is a unanimous report, in which the facts are fully stated. John Donahue, the beneficiary in this bill, was the purchaser by homestead entry of a 40-acre piece of land in the county of St. Clair, Mich., for which he received a patent from the United States Government. Under that patent he took possession of the land and made improvements upon it. He spent a considerable number of years there improving and residing on the land. But later on the United States made a grant of swamp lands to the State of Michigan. The dates of these transactions are also set forth in the report. By some inadvertence on the part of the Government this little tract of land, which was the homestead of this man, which had been patented to him, was included within the description of a swamp-land grant to the State of Michigan. Later the grantee of the State began suit in ejectment against Donahue, and though Donahue prevailed in the circuit court, yet on appeal the supreme court of the State of Michigan, in a case which is reported in 31 Michigan Reports, held that the grant of the Government to the State in present gave a title, and the grantee of the Government was ousted in favor of the grantee of the State.

This man now asks Congress to restore to him the value of this land, which is shown by the report and proofs to be about \$1,200. The committee, instead of allowing the value of the land, \$1,200, proposes to allow him the lesser sum of \$1,074.14, being the cost of the homestead and expenses in defending his title, etc.

Mr. PAYNE. Was not the value of the land considerably less than that?

Mr. WEEKS. The value of the land at the time this man received his patent was probably somewhat less than \$1,074, but the value of the property at the time it was taken away from him was upward of \$1,200. The committee thought that in fairness he ought to be paid back at least what the land had cost him. So the committee has unanimously reported in favor of \$1,074.49.

Mr. PAYNE. I do not think we ought to pay this amount of money for that land. I suggest to the gentleman from Michigan that he insert an amendment fixing, say, \$500. That would be four or five times what the man paid for the land.

Mr. WEEKS. The Government patented this land to this man, and some years afterwards, when it had advanced in value—after he had made his home there and spent his time and money upon it—the Government took it away from him by granting it to the State. Why should he now be asked to take \$500 as its value? This is not a poor or an unjust Government—

Mr. PAYNE. Between individuals the measure of damages would be what he had paid for the land.

Mr. MANN. May I ask the gentleman from Michigan a question?

Mr. WEEKS. Yes, sir.

Mr. MANN. What did this man pay for the land?

Mr. WEEKS. I do not know. I know that what he paid altogether, including expenses, taxes, etc., amounted to \$1,074.49. The Government, after patenting the land to this man, took it away from him by conveying it to the State of Michigan by an act of Congress.

Mr. GRAFF. After he had spent his time in improving it—after he had put work upon it?

Mr. WEEKS. Yes, sir—after he had cleared it up. The land as he received it was located in an almost impassable swamp. I have been through that country and know something about it.

Mr. MANN. How much were the taxes he paid?

Mr. WEEKS. The taxes which were paid amounted to—

Mr. MANN. To whom were they paid, the State of Michigan?

Mr. WEEKS. I suppose so. Land is taxed by the State and not by a general government.

Mr. MANN. If the State of Michigan has a law under which a man pays taxes, why should that man come to the United States Government to get those taxes back?

Mr. WEEKS. Because the United States gave him by patent that land, and afterwards caused the title, after he had improved the land, to pass away from under the man's feet, and impoverished him. It was the negligence of the Government in granting over again land that they had formerly conveyed to this man.

Mr. MANN. Does the gentleman understand that where the Government gives land it guarantees the title of a patent?

Mr. WEEKS. I do not so understand; but I understand that there is some—or should be—sense of honor to be observed on the part of the Government, as well as individuals, and if it makes

Mr. PAYNE. As they did by act of Congress along in the eighties, in reference to several of these roads. I presume the difficulty with the gentleman who presented this petition was this, and this is what he had in mind, that this land grant was forfeited about the year 1882. As I remember, a number of land grants were forfeited then under the lead of Mr. Payson, of Illinois, who was then in the House. Up to that time it had been a land-grant road.

Mr. GRAFF. No. Will the gentleman yield?

Mr. PAYNE. I state the facts just as the gentleman did, that it was originally a land-grant road.

Mr. GRAFF. Will the gentleman allow me just a suggestion, and that is that Congress declared this land grant forfeited on July 4, 1870.

Mr. PAYNE. Then there is absolutely no excuse under heaven, Mr. Chairman, for these gentlemen not going back and claiming six years when they commenced this action in 1884, and it is their own laches and their own fault that they did not claim for that.

Mr. MANN. My colleague from Illinois [Mr. GRAFF] stated that the original action was commenced in 1888 and they did claim for six years.

Mr. PAYNE. No; only for three years.

Mr. MANN. You stated 1888.

Mr. PAYNE. Then he made a misstatement. Was it not in 1870 that the land grant was given to the railroad?

Mr. GRAFF. Yes.

Mr. PAYNE. Exactly, and it was afterwards forfeited.

Mr. GRAFF. A petition was filed in 1888, but the road was not to be built.

Mr. PAYNE. Well, Mr. Chairman, I say I was right in my original statement of facts in this case. Instead of being 1870 that the land grant was forfeited, it was in 1870 that the land grant was obtained, and they went on and built the road. But they did not build it in time, and in 1882, according to my recollection, Mr. Payson was performing on these land grants here in the House, and he had passed a good many bills, and I presume this was one of them, and that is the reason, because the land grant was not forfeited up to 1882, that these lawyers—and I presume they were profound lawyers—did not claim back of 1882.

Mr. GRAFF. The land grant was forfeited in 1870.

Mr. PAYNE. The gentleman said a moment ago that the land grant was made in 1870.

Mr. GRAFF. I did not.

Mr. PAYNE. I understood the gentleman to make that statement. But, Mr. Chairman, under the present statement there is no excuse for any claim. For six years they filed their petition, and there is no excuse for them not commencing away back of the year of 1870 to obtain this claim if they thought they had an honest claim. Nor do they give any reason for it. They allowed their rights to sleep for twenty years. Now the statute of limitation is not only passed for the living party. It was on account of the living witnesses and for the perpetuation of testimony that we have the statute of limitations. We can not allow them to come in and prove up a state of facts when the Government of the United States can not meet them.

Mr. SULZER. Is it not a fact that the statutes of limitation will not run against the Government?

Mr. PAYNE. Will my friend contain himself? They commenced this action in the Court of Claims in 1884, as I remember the statement of the gentleman, and then they have allowed it to sleep from then until 1898.

Mr. GRAFF. They commenced in 1888.

Mr. PAYNE. And from that time down to 1898, ten years, when they filed their supplemental petition. Why did they not file a supplemental petition every year, or every six years, and keep their claim alive? That has not been explained.

Now, Mr. Chairman, we can not go into a wholesale repeal of the statutes of limitation in favor of this Government. If we had repealed that law, it would vitalize claims amounting to millions and hundreds of millions of dollars that could easily be brought in the Court of Claims. If there is no more reasonable excuse for the laches of the parties than has been given in this case, I think the bill ought not to pass.

Mr. MANN. Mr. Chairman, no one has a greater respect for the present Committee on Claims than I have, or for the chairman of that committee. I believe that the House itself has a very great deal of confidence in the committee, which has been proven this afternoon by the number of claims which have been passed—certainly more than have been passed on any other day since I had the honor of a seat on this floor. But here is a case where a new precedent is proposed to be set. The distinguished gentleman who is the chairman of the Committee on Claims has stated that in almost every case which is reported from that committee and passed by the House the statutes of limitation are directly or indirectly waived.

I will call the attention of the gentleman to the great distinction between that class of cases and this. The ordinary case upon which this House passes is not a case which could be prosecuted either in the Court of Claims or any other court in the first instance at all. The claims are personal claims, which are equitable, and not a legal claim that could go to the Court of Claims, and by the time they have obtained authority to present those claims to the Court of Claims it becomes necessary to waive the statute of limitations in a number of cases. Here is a different proposition, where the parties had originally the right to enter the Court of Claims.

Now, what are the facts? This railroad company carried the mails in 1878. There was a dispute between the railroad company and the Government as to the rate of pay. For ten years this railroad company held this claim without going to the Court of Claims. They might have filed a claim at any time. But they waited ten years before commencing any proceedings in the Court of Claims. They first filed their claim in 1888, and waited ten years longer, not to try the case, but without taking any proceedings in the case at all. They waited twenty years, and then filed an amended petition in the Court of Claims.

If this bill passes waiving the statute of limitations, then, Mr. Chairman, the statute of limitations as applied to the Court of Claims ought to be repealed. There is no justice or reason in a case like this, and the statute of limitations ought not to be waived. Nothing is shown here as an equitable reason for paying the claim. No excuse is given here as a special reason for waiving the statute of limitations, but simply the fact that the parties did not prosecute their rights. That is the case always with the statute of limitations. But the time for obtaining evidence is passed. Who knows here whether these parties were entitled to the extra 20 per cent in 1878? There is absolutely no evidence of any evidence being secured. I hope the House will not set the precedent of waiving the statute of limitations on a purely legal claim where the parties could have protected their rights absolutely in the Court of Claims.

The CHAIRMAN. The question is on laying the bill aside with a favorable recommendation.

The question was taken; and on a division (demanded by Mr. SULZER) there were 40 ayes and 23 noes.

So the bill was laid aside to be reported to the House with a favorable recommendation.

CHARLES T. CULVER.

The next business on the Private Calendar was the bill (H. R. 678) for the relief of the heirs of the late Charles T. Culver.

The Clerk proceeded to read the bill.

Mr. GRAFF. Mr. Chairman, I ask that that bill be passed without prejudice.

The CHAIRMAN. Without objection the bill will be passed without prejudice. [After a pause.] The Chair hears none.

CHARLES E. SAPP.

Mr. GRAFF. Mr. Chairman, there is a bill here which the gentleman from Kentucky [Mr. IRWIN] has asked me to ask unanimous consent to have taken up. It does not involve an appropriation, and I ask unanimous consent that it may be considered. It is a question of some lost stamps. It is H. R. 10775, for the relief of Charles E. Sapp.

The CHAIRMAN. The Clerk will read the bill.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay Charles E. Sapp, late collector of internal revenue for the fifth district of Kentucky, out of any money in the Treasury not otherwise appropriated, the sum of \$200, to reimburse him for special-tax stamps for "worms manufactured," charged to him, which were never received by him.

The CHAIRMAN. Unanimous consent is asked that the bill just reported be now considered.

Mr. BARTLETT. Mr. Chairman, I understood the gentleman from Illinois to say that this did not carry any appropriation.

Mr. GRAFF. Well, it is a formal matter. I am wrong about that, but there can be no objection to the bill.

Mr. PAYNE. Is it recommended by the Commissioner of Internal Revenue?

Mr. GRAFF. Yes.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. BARTLETT. Mr. Chairman, I had risen for the purpose of objecting.

The CHAIRMAN. The question is, Shall the bill be laid aside with a favorable recommendation?

The question was taken; and on a division (demanded by Mr. BARTLETT) there were 35 ayes and 4 noes.

Mr. BARTLETT. Mr. Chairman, I make the point of no quorum.

Mr. PAYNE. I ask the gentleman from Georgia to withdraw

parties had the right to go in the courts, as proven by the fact that they did go into court.

Mr. GRAFF. I am not sure—

Mr. MANN. They did go into court to get relief.

Mr. GRAFF. The facts show that these people did give notice by filing the original petition—

Mr. MANN. And waited ten years without pressing it in any way whatever. If there was ever a case where a client or the party was guilty of gross laches it is this case. The gentleman has just stated the history of it. While I believe in standing by the gentleman and his committee, I do not believe he will say that people guilty of such gross negligence ought to receive any favor whatever.

Mr. GRAFF. I think the fact that they filed their claim in 1888 was notice to the Government that they proposed to hold the Government liable, by reason of the fact that the Government had withheld 20 per cent of the contract rate by reason of what was claimed to be a land-grant right when in fact it was not.

Mr. MANN. Does the gentleman think that the Government would not have a right to assume, after receiving that notice, and nothing was done under it for ten years, that the notice has been waived?

Mr. GRAFF. I suppose the Government would assume that if the parties did not file their proof; but I do not know but that it may be true that there was some proof taken under this petition that was filed in 1888.

Mr. MANN. The gentleman, I know, is a good lawyer. Now, if he himself had filed a claim of this sort and proposed to let it pend ten years, would he have not filed a supplemental claim every year thereafter? And does he not think that this railroad company in the present case ought to sue its attorneys for their neglect, instead of coming here and begging from Congress relief to which they are not entitled?

Mr. GRAFF. The railroad company in this case is not asking anything except what is due them under the law.

Mr. MANN. Oh, the gentleman is mistaken. Under the law they are entitled to nothing.

Mr. GRAFF. I mean under the law outside of the statute of limitations.

Mr. MANN. Then the gentleman means under a part of the law, after the rest is wiped out.

Mr. GRAFF. I do not think that the Government can afford to take the position that it proposes to insist upon keeping money which it has wrongfully withheld from a railroad company or anybody else. And I have no doubt that the officials in the Post-Office Department, who charged up this portion of this railroad right of way as land-grant road, did so under the supposition that it was land-grant road, and no doubt it was quite a surprise to them when the fact was developed that this portion of the road was wrongfully charged up against this company.

Mr. MANN. The gentleman, as I understand, does not claim that in this case the Government took any advantage of the railroad company. And is there anything in this case which would take it out of the line of every other case coming under the statute of limitations?

Mr. GRAFF. In this case, undoubtedly, money was paid by mistake—mistake on the part of the Government officers. I do not think that the Government moved these officials to make this claim wrongfully.

Mr. MANN. If the statute of limitations should be waived in this case, can the gentleman conceive any reason why it should be enforced in any other case?

Mr. GRAFF. I think there would be a peculiar hardship if we should place this railroad company on the same basis as we would a private individual and deny to this company reimbursement for this sum of money which was withheld from them for dates which intervened between the dates which were allowed by the court.

Mr. MANN. If this application is a meritorious one, why should we not repeal the statute of limitation? There was no surprise here; no advantage was taken; there was no excusable ignorance of the law.

Mr. GRAFF. The gentleman from Illinois knows that, as the law books tell us, the reason for a statute of limitations is upon the theory that after the expiration of the period provided by the statute the presumption of law should be that the claim has been paid. In other words, it would be a serious hardship after an interval of time, which we fix by statute, for people to be called into court and compelled to litigate.

Mr. MANN. That is not the theory of the statute of limitations as I learned it. The theory of that statute, according to what I learned, is that litigation after a certain period must cease.

Mr. WM. ALDEN SMITH. That controversies should be brought to trial while the parties are alive.

Mr. GRAFF. That is exactly what I said.

Mr. MANN. The theory of the law is that a man who sleeps

upon his claim for a great number of years either acknowledges that he has no claim or is guilty of such laches that he is entitled to no consideration. That is exactly the case which the gentleman presents here.

Mr. GRAFF. As has been well suggested by the gentleman from Michigan [Mr. WM. ALDEN SMITH], one of the reasons why the statute of limitations is passed is because it is assumed that in the course of time parties or witnesses concerned in the controversy necessarily die; and hence it would operate as a peculiar hardship if parties were required to litigate a matter after the expiration of so long a period. Another of the moving causes for such a statute is that there must after a certain length of time be an end of litigation.

Now, in this case the parties are living. There is nothing about the proofs which makes it a hardship on either party that this relief should be granted. On the contrary, the essential facts stand out to-day conclusively established by the admission of the parties. There is nothing in this record to show that the delay in the trial of the petition which was filed in 1888 was not the fault of the Government. There is nothing to show but that the Government itself might have been the party in fault for the delay in the trial of the suit; and, indeed, I may say, as a matter of information from those who have had some experience in the Court of Claims that it is difficult to obtain a speedy trial in that court.

Mr. MADDOX. I will ask the gentleman if he called upon the Attorney-General, or, in other words, notified him of the pending of this claim.

Mr. GRAFF. No; I did not; but I addressed a letter to the Post-Office Department, to the head of the Department who had charge of these contracts and who is supposed to be the guardian of the interests of the Government in this case, and there was no objection on the part of the Post-Office Department to the passage of this legislation. The Department itself had no right to pay this claim until it was recognized by Congress, and this bill is simply a reference to the Treasury Department for the purpose of adjusting this account between the railroad company and the United States.

It is not the kind of a case where the lapse of time is to do any injury to either party; it is not the kind of a case where there is any conflict about the fact. There is not any difference at all between the case which was adjudicated and the one which we are considering. It is admitted right along to-day that the Government did withhold from this railroad company this 20 per cent excess over right of way, upon the theory that it was a land-grant right of way, when in fact it was not. The only trouble was the fact that it was not a land-grant road did not develop from a legal standpoint until the adjudication by the court.

Mr. PAYNE. Will the gentleman yield me five or ten minutes?

Mr. GRAFF. Yes.

Mr. PAYNE. Mr. Chairman, this bill goes a little further than my friend says. It not only opens these accounts and waives the statute of limitations, but it requires the officials to settle the claims in accordance with the decision—that is, at the same rate as the decision of the Court of Claims for the other years which were adjudicated. Now, what are the facts about this case, as stated by the gentleman? In 1888 this railroad company commenced an action in the Court of Claims against the Government, and in its petition claimed for only three years, although it had been carrying these mails for ten or twelve years under the same conditions—presumably under the same conditions. I do not know, it does not appear that the counsel for the railroad company knew that there was a statute of limitations. They may have thought it was only for three years instead of six. They may have thought that.

I notice, Mr. Chairman, generally in passing upon these claims, we do not waive the statute of limitations unless there is some excuse for the laches on the part of the claimant for not bringing his claim to the attention of the proper officials in the proper time, and also bringing it to the attention of the court within the proper time, within the six years. If he has a reasonable excuse—

Mr. SULZER. Let me suggest—

Mr. PAYNE. Just wait a moment and I will permit a question. If he has a reasonable excuse I know Congress generally or frequently, perhaps too frequently, waives the statute of limitations. Now, why is it that these eminent lawyers who brought this case into the Court of Claims did not claim for more than three years? It does not appear on the face of these papers. The chairman of the committee does not appear to be able to tell us. He says this was originally a land-grant road, but that the road was not completed in time, and that the Government forfeited the land grant.

Mr. GRAFF. That the railroad company forfeited it.

Mr. PAYNE. Well, the Government declared it forfeited.

Mr. GRAFF. Yes.

MORGAN'S LOUISIANA AND TEXAS RAILROAD AND STEAMSHIP COMPANY.

The next business on the Private Calendar was the bill (H. R. 4636) to authorize the Secretary of the Treasury to adjust the accounts of Morgan's Louisiana and Texas Railroad and Steamship Company for transporting the United States mails.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Treasury is hereby authorized and directed to state an account with Morgan's Louisiana and Texas Railroad and Steamship Company for transporting the United States mails over postal routes Nos. 30003 and 149003 during the period between July 1, 1878, and February 21, 1892, both inclusive, in which he shall credit said company with nonland-grant rates over that portion of its route between New Orleans and Morgan City, La., in accordance with the decision of the Court of Claims in case No. 15877, and shall pay to said company, out of any money in the Treasury not otherwise appropriated, such sum as shall remain due upon such adjustment.

Mr. GRAFF. Mr. Chairman, the facts in this case are these: Under the law, for any services rendered by a railroad to the various departments there shall be a 20 per cent deduction made for that portion of the railroad which is land-grant right of way over which the article passes in transportation. For a number of years the United States Government had entered up against this railroad company a certain number of miles of railroad as a land-grant road, and deductions made proportionately from the contract rates of transportation. The railroad company finally prosecuted claims for these deductions in the Court of Claims, and it was decided that the United States Government had no right to make this deduction for this portion of the right of way, because it was not a land-grant right of way.

The facts were that the United States had given to this railroad a right of way, under the provision, however, that the road must be completed within ten years. The road failed to complete its railway within the ten years, and the land grant was forfeited. The road was compelled to go ahead afterwards and pay for its right of way, and condemn it in the usual way. This bill is simply for the purpose of having the Department adjudicate that portion of the claim which the Court of Claims did not pass upon because it was barred by the statute of limitations.

That the Secretary of the Treasury is hereby authorized and directed to state an account with Morgan's Louisiana and Texas Railroad and Steamship Company for transporting the United States mails over postal routes Nos. 30003 and 149003 during the period between July 1, 1878, and February 21, 1892, both inclusive, in which he shall credit said company with nonland-grant rates over that portion of its route between New Orleans and Morgan City, La., in accordance with the decision of the Court of Claims in case No. 15877, and shall pay to said company, out of any money in the Treasury not otherwise appropriated, such sum as shall remain due upon such adjustment.

Mr. PAYNE. I understand this company settled with the Government annually at least for fourteen years, and took up what balance they had, and it is to be assumed that they gave a receipt in full to the Government.

Mr. GRAFF. Yes, sir; I suppose that is true.

Mr. PAYNE. I suppose it was twenty years before they discovered the facts that some time must have appeared—if it was a fact—that this was not a land-grant road because the land grant had been forfeited and they had been compelled to buy by condemnation proceedings.

Mr. GRAFF. They obtain no benefit by reason of the land grant.

Mr. PAYNE. It is a most remarkable case. How much does it involve?

Mr. GRAFF. Between \$23,000 and \$24,000, or thereabouts.

Mr. MADDOX. How does the statute of limitation run in this case?

Mr. GRAFF. It does in this case, as I remember; six years is the period of limitation.

Mr. MADDOX. Why should they want to come to Congress now and ask to be relieved of the effects of the statute of limitation? Was the decision of the Supreme Court of the United States made before they were barred or was the decision made after they were barred?

Mr. GRAFF. Of course, they had commenced their suit. They perhaps did not know whether they would be able to recover at all until the final adjudication would determine what their rights were under the law, and in the meantime the statute of limitations was running, and when the case was finally decided, why, they were not able to recover for anything prior to six years before the commencement of the suit.

Mr. PAYNE. It seems that they waited about twenty years before they began.

Mr. GRAFF. There is nothing unusual about removing the statute of limitations.

Mr. MADDOX. There is something unusual about it. I know of thousands of claims that would be here before Congress now if it was not for the statute of limitations, claims fully as just as this; and if you are going to remove the statute of limitations in this instance, we will ask you to remove it in others.

Mr. GRAFF. There is hardly a case that comes before Con-

gress that we are not asked to remove the statute of limitations in regard to it.

Mr. MADDOX. If there was any equitable cause or reason why we should allow these parties to come into court, it might put a different look on it, but I take it that there was nothing to keep them from claiming their rights at any time, and if the statute of limitations means anything it ought to apply to this case.

Mr. GRAFF. These parties had deducted from their contract constantly the amount of transportation over this portion of the road, because it was claimed that it was a land-grant road. It turned out by the decision of the Supreme Court that this railroad had wrongfully withheld from it through the United States this sum of money. This matter was adjudicated—

Mr. MADDOX. Let me cite the gentleman some cases. If you pay this bill, let me show you what is liable to come up. In 1869 and 1870 this Congress passed a law taxing all cotton raised in the South $1\frac{1}{2}$ or 2 cents a pound. That law was clearly unconstitutional, and the case was brought to the court in which it was so decided. But by the time this case was decided all these parties were barred by the statute of limitations. Now, if there is any reason why we should come in here and relieve this railroad company of the statute of limitations, in the name of high heaven, why shouldn't these people have a right to come here and ask that the statute of limitations be removed and they get the money that was taken from them by the Government unlawfully, and so decided by the late income-tax decision. It is as clear as a noonday sun.

Mr. GRAFF. I will read a portion of this report, which will show why the parties seek this relief:

The claimant, Morgan's Louisiana and Texas Railroad and Steamship Company, operated said road between New Orleans, La., and Morgan City, La., a distance of 80.37 miles, and have, since July 1, 1878, been carrying the United States mails over its road, under regulations made with the Postmaster-General. During this time it received for transporting such mails only 80 per cent of the statutory price, that being the price paid to land-grant companies, the 20 per cent having been withheld because it was alleged that it was a land-grant road, and it was so treated in its payment by the United States.

Said company, claiming that it was entitled to full nonland-grant rates for carrying the mails, on the 5th day of June, 1888, commenced an action in the Court of Claims against the United States for the purpose of recovering the 20 per cent which it claimed it was entitled to receive for carrying the mails over the lines of this road for the fiscal years ending June 30, 1882, 1883, and 1884.

No action was taken on this petition until during the year 1898. On the 21st day of February, 1898, the claimant filed a supplemental petition alleging that it was entitled to the 20 per cent withheld by the Government, or, in other words, that it was entitled to compensation for carrying the mails at nonland-grant rates from July 1, 1878, to December 31, 1897.

On the original petition, filed June 5, 1888, and the supplemental petition of February 21, 1898, the court, after hearing and trial, made a return in that case of a finding of law and fact, a copy of which is appended to this report and made a part of it.

By that decision it was determined by the court that the road was a nonland-grant road, and that the claimant was entitled to recover for carrying the mails at full contract prices allowed to nonland-grant roads, and that it was therefore entitled to recover the 20 per cent of compensation that had been retained by the Post-Office Department, but, the original petition in that case only having claimed compensation for the years 1882, 1883, and 1884, gave judgment for the claimant for the sum of \$8,348.04, the amount still due the company for those years; and the supplemental petition having been filed more than ten years after the original petition, the court further held that it only had jurisdiction on the supplemental petition to determine the amount due the claimants for the six years immediately preceding the filing of the said supplemental petition, and on that basis gave judgment for the plaintiff for the sum of \$22,886.79 as additional compensation due for the six years from February 21, 1892, up to December 31, 1897, leaving undetermined the additional compensation due the claimants for all that period from July 1, 1878, up to February 21, 1892, except for the years 1882, 1883, and 1884, which were adjudicated under the litigation on the original petition filed in said case, on the ground that the same were barred by the statute of limitations.

Mr. SULZER. This is a unanimous report from the committee, is it not?

Mr. GRAFF. Yes. Now, I am not in favor of giving any greater rights to railroad companies than to a private individual, but there is not a single claim scarcely, I venture to say, that is considered in this Congress that, if the statute of limitations of six years was applied to it so that the statute would begin to run immediately after the claim became due, would not have to be turned out without relief.

Mr. MANN. Does the gentleman from Illinois say that people make no effort to get their claims allowed within six years of the time they accrue? Ordinarily, does the gentleman mean to say that in all these claims cases that come before his committee the claimant allows more than six years to go by before anything is done?

Mr. GRAFF. Oh, I suppose they do make some effort.

Mr. MANN. The only method of getting relief in ordinary cases is through Congress; but in this case the parties had a right to obtain relief through the courts.

Mr. GRAFF. There are hundreds of bills passed by this Congress authorizing the sending of claims to the Court of Claims for adjudication and waiving the statute of limitations.

Mr. MANN. But that is not the case here. There was no necessity for sending this case to the Court of Claims. The

aside to be reported favorably to the House? it was decided in the negative.

Mr. BUTLER of Pennsylvania. What effect has that on the bill?

The CHAIRMAN. The bill will remain on the Calendar.

Mr. PAYNE. I move that the bill be reported with a recommendation that the enacting clause be struck out.

The motion of Mr. PAYNE was agreed to.

Mr. HILL. Mr. Chairman, I ask unanimous consent that only such bills be taken up hereafter during the remaining three-quarters of an hour as are represented by members present on the floor of the House now.

Mr. HULL. Mr. Chairman, I ask for information as to whether or not that would cut out Senate bills. There is one Senate bill here that I would like to see passed upon.

Mr. HILL. Well, if the member refers to Senate bills, all right. I represent a Senate bill here myself.

The CHAIRMAN. Is there objection?

Mr. PAYNE. I object, Mr. Chairman.

The CHAIRMAN. Objection is made by the gentleman from New York.

F. Y. RAMSAY.

The next business was the bill (H. R. 11273) to pay F. Y. Ramsay, heir at law and distributee of the late Joseph Ramsay, \$430.42, for balance due the said Joseph Ramsay as collector of customs and superintendent of lights in the district of Plymouth, N. C.

The bill was read, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Treasurer of the United States is hereby authorized and directed to pay, out of any funds in the United States Treasury not otherwise appropriated, the sum of \$430.42 to F. Y. Ramsay, heir at law and distributee of the late Joseph Ramsay, being balance due the said Joseph Ramsay, deceased, as collector of customs and superintendent of lights in the district of Plymouth, N. C., from March 1, 1859, to April 30, 1861.

Mr. PAYNE. Mr. Chairman, I am getting curious about these bills, and I would like to know about this one.

Mr. GRAFF. The facts can be shown in this case by a letter from the Secretary of the Treasury, which I will read:

SIR: Referring to your communication of the 12th instant, making inquiry regarding a claim due to Mr. Joseph Ramsay as collector of customs at Plymouth, N. C., about April, 1861, in the sum of \$430.42, I have the honor to advise you that an examination of the books of the office of the Auditor for this Department shows that there appears to be due the above-named person, under settlement report No. 23978, the sum of \$430.42.

Your attention is invited to section 3480, Revised Statutes of the United States, under which it would seem payment of this and similar claims by the Department is prohibited.

L. M. SHAW, Secretary.

I now yield to the gentleman from North Carolina [Mr. CLAUDE KITCHIN].

Mr. CLAUDE KITCHIN. Mr. Chairman, this claim is for the balance due, as appears on the books of the Treasury Department, for services of Mr. Joseph Ramsay, deceased, as collector of customs at the port of Plymouth, N. C.—for services rendered prior to 1861, found to be due on the books of the Treasury Department.

Mr. GRAFF. What provision of the statute is it that this has reference to?

Mr. CLAUDE KITCHIN. After the war a statute was passed which prohibited any officer of the Government paying any demand or claim to any person who was not loyal to the Union, if that claim arose prior to April 13, 1861. Joseph Ramsay performed these services from 1840 to 1861, and the only reason the Department did not pay it was because of this statute which prohibited such demand being paid to any person unless he showed that he was loyal to the Union during the war. This gentleman could not do that. He took no part in the war, but he could not and did not attempt to show that he was loyal to the Union. The money is due him, admitted by the Treasury Department, and we thought it ought to be paid, and ought to have been paid long ago.

The CHAIRMAN. The question is, Shall the bill be laid aside with a favorable recommendation?

Mr. LOUD. Mr. Chairman, I was not able to get the statute of March 2, 1895, to which the gentleman from Illinois [Mr. GRAFF] referred a short time ago. That is in relation to this relief of the *Charleston*. I will not read all the act. I will state that the liability of the Government under this act shall be limited to such claims of personal property as are required by the necessary naval regulations. Notwithstanding the gentleman assumed to say that the statement from some department official that this bill was in accordance with that law, at that time I took occasion to contradict him without knowing the fact.

Now, I contradict it, knowing that the statement was absolutely false. The limitation put in that bill was one year's pay. The limitation here is to such personal property as is required, and that is the relief that ought to have been granted in this case, I believe very foolishly denied by the decision of the Comptroller, that it was a time of war, and I want to call attention to the fact

that the position I assumed was correct. There has been a misrepresentation to the House, not by the gentleman, but by the Department. They have here placed the limitation in the bill so high that they can relieve the officers and crew of the *Charleston* in an amount five or six times as large as they could have recovered if they had been paid under the law of March 2, 1895.

Mr. GRAFF. But the bill confines the amount to be paid to the losses actually incurred up to that minute.

Mr. LOUD. Yes; but it is not paid them under this statute. The bill is very cunningly drawn; there is no doubt about that.

Mr. WEEKS. Mr. Chairman, I call for the regular order.

Mr. LOUD. Oh, well; the gentleman will get along just as fast without being too much in a hurry. I only desire to correct the statement I made.

Mr. GRAFF. I move that the bill before the House at the present time be laid aside with a favorable recommendation.

Mr. PAYNE. Before that is done I want to suggest to the gentleman from Illinois [Mr. GRAFF] that he ought to correct the action that was taken through the false impression that the committee obtained from the letter from the Navy Department. The committee was given to understand that this bill which was laid aside was in exact terms the same as under the general law. If that is not done, I hope the House will kill the bill when they get it into the House.

Mr. GRAFF. I base my information on the letter of the Secretary of the Navy.

Mr. PAYNE. Certainly; I know that.

Mr. GRAFF. I am willing that the bill should be amended so as to provide that such losses shall be estimated upon the basis of property allowed to these officers under the Navy Regulations, and if the gentleman from California [Mr. LOUD] will prepare an amendment while we are discussing these other bills, for myself I guarantee to him that I will have no objection to it. But the present bill is not involved in this discussion, and I ask that it be laid aside with a favorable recommendation.

The question was taken; and the bill was laid aside to be reported to the House with a favorable recommendation.

HENRY C. NIELDS.

The next business on the Private Calendar was the bill (H. R. 9867) for the relief of the estate of Henry C. Nields, deceased.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he hereby is, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the estate of Henry C. Nields, deceased, late lieutenant-commander in the United States Navy, the sum of \$960, the difference between other duty and sea pay, for service on the receiving ship *Potomac* from December 2, 1870, to December 26, 1870, and from September 14, 1874, to January 12, 1877, which sum was adjusted and allowed by the Auditor for the Navy Department January 10, 1889.

Mr. GRAFF. I yield to the gentleman from Pennsylvania.

Mr. BUTLER of Pennsylvania. Mr. Chairman, I would be very glad to answer any question asked. This bill is for the relief of Mrs. Nields and her children. Gentlemen of the committee will pardon me for saying that I requested permission to make the report on this bill, and I requested it because this widow and her children live in my town and I am very well acquainted with them and I personally know their worthiness. Lieutenant-Commander Nields was perhaps one of the most distinguished sailors from eastern Pennsylvania. I had set out in the report as a matter of history his wonderful performance in Mobile Bay, while that does not bear upon the facts in this case, nor would I have asked the committee to report favorably on this claim by reason of it.

The committee reported this bill to allow the sum of \$960, the difference between other duty and sea pay. Under a ruling of the Supreme Court of the United States he was entitled to that difference in pay, but he did not present his claim, as we find, because he was away off at sea when this ruling of the Supreme Court was made. He came home and died shortly after. His widow did not discover that he was entitled to it until 1886 or 1888; and when she made an effort to obtain it, it was found to be necessary to do so by a special bill. I introduced the bill for her relief. Let me say, gentlemen of the committee, that it was supposed, and I do not wish to make any reflection upon anybody, that the bill had been introduced by my predecessors in Congress.

There was no doubt sensible reasons assigned for the failure. I certainly hope there will be no objection to this claim. The Secretary of the Navy says, in substance, the estate is entitled to the money. The Supreme Court of the United States has held that the sailor was entitled to the difference in pay between an officer performing shore duty and one performing sea service. I would be very much pleased to answer any question that any gentleman may desire to ask, but to avoid detaining the committee and to get along with the business, I will ask that the bill be laid aside with a favorable recommendation.

The bill was ordered to be laid aside with a favorable recommendation.

Mr. BUTLER of Pennsylvania. I want to correct the gentleman in that. We reduced the amount in the committee; we cut it in two.

Mr. PERKINS. You make it \$5,000?

Mr. BUTLER of Pennsylvania. Yes; we amended the bill by cutting it in two.

Mr. PERKINS. If all the money that was captured was \$11,000, you would not think it proper to pay him \$5,000 reward, would you? Assuming that he captured \$11,000 or \$12,000, would the committee pay a soldier \$5,000 reward for turning that amount of money over?

Mr. BUTLER of Pennsylvania. That is a fair question, and I will answer it the best I know how. We assumed that he had captured a much larger sum of money, and we used the sum of \$11,791 as a means of identifying the balance of the money.

Mr. PERKINS. Then the committee must necessarily find that he turned over a large sum of money to his superior officers, and they stole that money. That must be the position the committee takes—that the commanding officers received the money which this man had found and turned over to them and embezzled it. It went somewhere.

Mr. BUTLER of Pennsylvania. Does the gentleman put that in the form of a question?

Mr. PERKINS. Yes.

Mr. BUTLER of Pennsylvania. What the committee has found they have stated in the report. I do not understand the committee charged anyone with theft.

Mr. PERKINS. Where did they find that the money had gone to?

Mr. BUTLER of Pennsylvania. For the purchase of the property to which I have referred, and the committee used, as one of the means of reaching that conclusion, the letter written to this old man by ex-Governor Curtin, of Pennsylvania, at the time he and Mr. Samuel J. Randall undertook to have this man recompensed for his services.

Mr. PERKINS. Who bought the property? I know nothing about it. It seems to be a serious matter to charge here that officers of the United States in the Mexican war received \$50,000 or \$100,000 and stole it, and on the basis of that finding allow this man \$5,000 for finding money which we must conclude was dishonestly used. I do not want to vote for it without I know the facts.

Mr. BUTLER of Pennsylvania. I do not want anybody to vote for it. I am stating the facts as my duty compels me to do. I do not charge anybody with having stolen anything. The gentleman from New York may in his technical way, but he knows, and I know, that it has always been understood that that property which I have referred to was purchased with money that came from Santa Ana's army.

Mr. PERKINS. I do not know it at all. I am ignorant of the facts.

Mr. BUTLER of Pennsylvania. I refer to the Soldiers' Home.

Mr. CLARK. May I ask the gentleman a question?

Mr. BUTLER of Pennsylvania. Certainly.

Mr. CLARK. On what kind of a basis does the gentleman come to the conclusion that a soldier ought to be paid a premium on property that he gets from the enemy and pays over to the United States?

Mr. BUTLER of Pennsylvania. There is, of course, no legal liability. It is sometimes done. I am told, I do not vouch for it, that property has at times been taken—I have heard of it—and has neither been turned over to the Government as it should have been nor returned to parties from whom it was taken after hostilities ceased.

Mr. CLARK. But one wrong does not justify another.

Mr. BUTLER of Pennsylvania. Honest men who return property are always rewarded if the party that owns it is liberal.

Mr. CLARK. It is the soldier's business to capture the enemy's property; that is what he is there for. Suppose this bill passes—and it is the first I ever heard of—this is made a precedent, and every soldier in the United States Army that captured any property from somebody through the civil war comes in here and files a claim for reward. How much do you suppose it would amount to?

Mr. BUTLER of Pennsylvania. Does the gentleman put that as a question for me to answer?

Mr. CLARK. Well, you can guess it off, or you need not answer it at all. [Laughter.]

Mr. BUTLER of Pennsylvania. Then let the gentleman answer his own question. I do not know what the House would do.

Mr. CLARK. If this man is entitled to his percentage as a collector of this money, every man that served in the Federal Army during the civil war and captured any property and turned it over to the Government would be equally entitled to his commission or percentage.

Mr. BUTLER of Pennsylvania. The gentleman is able to answer that question for himself.

Mr. CLARK. I want the gentleman to answer it.

Mr. BUTLER of Pennsylvania. I suppose so.

Mr. CLARK. Let me ask the gentleman still another question. If that is true, then are not the soldiers who captured property over in China during the late "ruction" there—are they not—

A MEMBER. They have not turned it over.

Mr. CLARK. But they ought to be made to turn it over, and the Government ought to be made to return it to the people from whom it was taken.

Mr. BUTLER of Pennsylvania. The gentleman from North Carolina has answered that question. Those soldiers have never turned that property over to the Government.

Mr. CLARK. They ought to be made to do so.

Mr. BUTLER of Pennsylvania. I have no way of making them turn it over to the Government. [Laughter.] I am talking about this claim, which I have presented here by the unanimous authority of the Committee on Claims.

Mr. MADDOX. Let me say that property amounting to about \$48,000,000 was turned into the Treasury as "captured and abandoned property," and about eleven millions of that was captured by the United States troops. Now, if we start out with this precedent—

Mr. BUTLER of Pennsylvania. Does the gentleman refer to property captured during the war with Mexico?

Mr. MADDOX. No; the civil war. The United States troops captured that property and it is in the Treasury now. If we start out with a precedent of this sort, where are we going to end?

Mr. BUTLER of Pennsylvania. Was that property in cash?

Mr. MADDOX. It was "captured and abandoned property." It was so entered on the books.

Mr. BUTLER of Pennsylvania. Would it have to be converted into cash?

Mr. MADDOX. It is already converted into cash, long ago.

Mr. BUTLER of Pennsylvania. Of course, this case may set a precedent; I am not here to say it will not. I have tried to say half a dozen times that I present the facts as they are. I have never yet been afraid of committing myself to any proposition which I thought right, because I apprehended I might afterwards be confronted with it as a precedent. I believe that every case ought to stand on its own merits.

Mr. MADDOX. How many other men were with this man when he was captured?

Mr. BUTLER of Pennsylvania. I have already answered that question two or three times; there were four or five. The gentleman from New York says there were more. I have said there were four or five, and I say so still. I may say, further, that if I have misstated the facts I shall be glad to have the gentleman from New York show my error.

Let me say to my friend from Georgia [Mr. MADDOX] that I am not here urging any person to vote for this claim. I think it should be settled. I am making, as instructed by the committee, the best argument that I know how to make in favor of the claim. [Laughter and applause.]

Several MEMBERS. There is no doubt about that.

Mr. BUTLER of Pennsylvania. I was authorized to present this to the House for consideration.

Mr. BOWERSOCK. Is this soldier a pensioner?

Mr. BUTLER of Pennsylvania. Yes; he has been drawing a pension. He is pensioned as a soldier of the Mexican war. We had an examination of the record made. In that way we were able to identify him as having been in General Scott's army.

Now, Mr. Chairman, if anybody wants to ask any further questions—

Mr. PAYNE. Just one question. In view of the fact that the gentleman is not able to cite any precedent of a private bill similar to this; in view of the fact that Congress has never, from the foundation of the Government, passed any general law giving prize money to the Army, and in view of the further fact that Congress has recently by an overwhelming vote repealed all laws giving prize money to officers and men in the naval service, does not the gentleman think he had better withdraw this bill for repairs. [Laughter.]

Mr. BUTLER of Pennsylvania. No, Mr. Chairman. Let me say to the gentleman from New York that while there will be no prize money paid hereafter under the law, it is a fact that all men who performed service similar to that of this old man have been already provided for. I say to the gentleman further that there is precedent for the allowance of such a claim as this; and as I endeavored to state in the first part of my argument, that was one of the things that induced us to make a favorable report on this claim. Now, I am willing that the House should dispose of it as it deems proper.

The question being taken on the amendment reported by the committee, it was agreed to.

The question being taken, Shall the bill as amended be laid

The amendment was read, as follows:

In line 9 strike out the words "ten thousand" and insert in lieu thereof the words "five thousand."

Mr. BUTLER of Pennsylvania. Mr. Chairman, the report in this case is quite a lengthy one. It states all the facts that I could state. It might, perhaps, be well to read it, or that I should have permission to read it in my own time. Yet for the benefit of any gentleman who may have some doubt about the propriety of the bill I will make the following statement:

George Rushberger, according to the account I have of him, has stood around this Capitol, like many another old claimant, for fifty years, presenting to each Congress a claim for certain moneys that he says the Government of the United States owes him. The report shows that at various Congresses action has been taken toward rewarding this man for what the Committee on Claims concluded was a faithful service which he had performed for his Government in turning over to the Government money that he captured from Santa Anna's army many years ago during the war with Mexico. As I have already said, for years this old man has presented to Congress his claim, and the Committee on Claims concluded that it would pass upon his rights and report a bill favorably to the House.

Now, Mr. Chairman, the Committee on Claims was unanimously satisfied on two propositions: First, that the claimant here is the exact George Rushberger who did capture, along with some other soldiers, \$200,000 of Santa Anna's money; secondly, the committee was also persuaded and unanimously concluded that this money was turned over to Gen. Winfield S. Scott. It further concluded, and it was not difficult to come to that conclusion, that all this money was not returned to the United States Government, and that the records show that on the day this money was captured ten or twelve thousand dollars was turned over to the quartermaster and returned to the Treasury of the United States, or at least to the Quartermaster's Department, at Washington. He has always claimed that all this money, amounting to \$200,000, should have been returned to the Government. With that he had nothing to do, and neither have we.

It is plain the whole amount was not reported to the Government. Here are the facts submitted; and I may say, gentlemen of the committee, that I have no earthly interest in the result except to do what is right. I repeat it was easy for this committee to find that this man had performed some service. The testimony was submitted to us, and from it we adopted this report. I am not breaking any rule of the committee when I say I believe out of the 15 members on the committee there were certainly 13 or 14 present, and that their action was unanimous. We concluded, as the precedent had been established on many occasions of rewarding men for honest performance of their duties, that this old man was as much entitled to his reward as any other person ever claiming a reward of a similar character.

The Supreme Court of the United States has held, in what is known as the sugar-bounty case, that while such a claim is not a debt, it has been recognized time and again that such conduct was a sufficient inducement for reward. During the time that ex-Governor Curtin, of Pennsylvania, was a member of this House this report says that he made some effort to have this old man compensated. He is a somewhat historical figure in the State of Pennsylvania, and that is one reason why I am interested in having a careful examination made of his claim. The Senate of the United States, as I recollect, from the fact shown by the report, has reported this bill favorably two or three times. Whether the Senate has acted upon it I am unable to state. I have not any further explanation to offer; but I will say to my friend who has risen all the facts I know of are in this report.

Mr. MADDOX. Do I understand the gentleman to say that while \$200,000 was captured, only \$12,000 was turned in to the Government?

Mr. BUTLER of Pennsylvania. Those are all the facts, I will state to the gentleman from Georgia. It is further said, if my friend will permit me, that this beautiful property north of Washington was purchased by money that this old man and his comrades captured.

Mr. DALZELL. But the \$200,000 was turned over?

Mr. BUTLER of Pennsylvania. I am satisfied of that; I may say to the gentleman that it never reached the Quartermaster-General's Department at Washington. This statement is to be considered as no reflection upon the honesty of anybody. I am simply giving the facts as they appeared to us.

Mr. MADDOX. If I understand the gentleman, if he turned over the \$200,000 he would have had a claim of the amount set out in the bill.

Mr. BUTLER of Pennsylvania. As I understand the gentleman from Georgia, old Mr. Rushberger claims that this money that they captured was turned over to their superior officer. The money found in these bags that he turned over amounted to \$200,000. If that amount had appeared in the Department at

Washington, I assume that, if he is entitled to any reward at all he would have been entitled to the reward now asked. It is proposed to reward him according to the service performed and for his honest way in performing it. As my friend from North Carolina says, this is not a legal question. The proposition is, Will the United States Government, in a case of this kind, reward a man for faithful services? That is all there is in the controversy.

Mr. MADDOX. Do the committee think that this amount was really captured and turned over?

Mr. BUTLER of Pennsylvania. We have not the slightest doubt about it.

Mr. PAYNE. What evidence is there, any more than the statement of the claimant that he had captured this \$200,000 and turned it over? If he had taken \$200,000 it would have taken a long time to count that much gold—at least it would have taken me a long time to count it. Certainly the presumption would arise that he should have turned over more than \$12,000 of it if he captured that amount.

Mr. BUTLER of Pennsylvania. I would be very much pleased to give the gentleman from New York the benefit of such information as we had. Affidavits have been submitted to the Senate committee. They have been incorporated into the Senate report, made by the committee, and they are from the comrades of the claimant. One of them was John W. McCully, who testified that he was along with Rushberger at the time the money was captured. Further, there are the affidavits of James Russell, Charles W. Mowry, William H. Barker, Charles H. Bryson, and William Brindle. I will say to the gentleman from New York, of course, these questions of fact are determined upon such testimony as is submitted to us, and the testimony of Rushberger corroborated by the evidence of four or five men, whom we assume to be reputable, who say that the money was captured, induced favorable action.

Mr. PAYNE. I did not notice anything showing the amount of this money in any of these affidavits. Now, there is another question I would like to ask.

Mr. BUTLER of Pennsylvania. There is no testimony except the testimony of Rushberger himself of the amount of money. That is vague and uncertain, but there is testimony which satisfied us and would satisfy my friend from New York that he did turn over between eleven and twelve thousand dollars to the Government, and that much money was reported to the Quartermaster-General.

Mr. PAYNE. I agree with the gentleman on that.

Mr. BUTLER of Pennsylvania. But, Mr. Chairman, it is a fact, as I believe, I may say, that it has always been understood that there was a certain amount of money brought from Mexico, with which this beautiful property to the north of the city, known as the Soldiers' Home, was bought, the most beautiful part of the city, but I do not know whether it is true or not.

Mr. WARNER. Is it claimed that this man did any more than his duty as a soldier?

Mr. BUTLER of Pennsylvania. No, sir; it is not.

Mr. PERKINS. How many were there present when this money was captured?

Mr. BUTLER of Pennsylvania. The report says that he was a sergeant, I think, and there were present three or four others, or there were three or four others who were aware of the capture, if not present.

Mr. PERKINS. Why have not the other men claims, also; why should this man get \$10,000 and they get nothing?

Mr. BUTLER of Pennsylvania. I understand these other men are not now living.

Mr. PERKINS. Their heirs will come here; do not be afraid.

Mr. MANN. This man won't be living much longer if he has been here for fifty years.

Mr. BUTLER of Pennsylvania. I do not know whether he has been here all that time, for I have not been here myself.

Mr. MANN. Will the gentleman allow me a question?

Mr. BUTLER of Pennsylvania. Certainly.

Mr. MANN. Was there any report of any officer of the Army in reference to this money at the time it was turned over?

Mr. BUTLER of Pennsylvania. I believe none except what appears in the quartermaster's report saying so much money had been returned.

Mr. MANN. Is the gentleman quite sure that that officer of the Army returned \$12,000 to the Government without making a report as to where it came from and how it was taken?

Mr. BUTLER. There is no report at all. It seems that \$11,791.19 appears to have been turned over April 26, 1847.

Mr. MANN. That appears from the records of the War Department?

Mr. BUTLER of Pennsylvania. From the records of the War Department.

Mr. PERKINS. As I understand it, the committee are willing to allow this man \$10,000.

which they incurred; and the limit is placed at one year's pay without rations.

Mr. BUTLER of Pennsylvania. Does the gentleman from California remember the year in which the law was passed?

Mr. LOUD. I do not. I think it was 1894, or before that—perhaps in 1891 or 1892.

Mr. BUTLER of Pennsylvania. The gentleman thinks it was prior to 1894?

Mr. LOUD. That would be my recollection; I can not speak positively, but that is immaterial. I say that these men have received all that the law allows them. I will say, too, that a month's pay, I think, is as much as they ought to have.

Mr. GRAFF. Let me say that these losses unfortunately occurred in such a manner that the claims arising therefrom could not come under the general law with reference to losses. I will read a letter from the Secretary of the Navy, embraced in the report:

NAVY DEPARTMENT, Washington, February 7, 1901.

SIR: Referring to the bill (H. R. 13017) "for the relief of the officers and crew of the U. S. S. *Charleston*, lost in the Philippines November 2, 1899," and to your request of the 5th instant for "acts, information, and opinion in regard to the merits of the case, I have the honor to state that the *Charleston*, while on passage from Kasiguran to San Pio V., Zamiguin, Philippine Islands, on the morning of November 2, 1899, ran upon an unmarked and unknown shoal and was lost.

The court of inquiry, convened by order of the commander in chief of the naval force on Asiatic station to inquire into the circumstances connected with the loss by grounding of the *Charleston*, found, inter alia, that every precaution required by the United States Navy Regulations was taken by the commanding officer to insure the safety of the vessel under his command against accident, and in its opinion no blame or responsibility for the accident to the vessel should be attributed to the officers and crew.

The commanding officer of the *Charleston*, in his report dated November 28, 1899, to the commander in chief, states: "I regretted very much the necessity for anybody to leave personal effects behind, but as the boats were deeply laden with the crew, arms, and ammunition, and provisions, and had about 18 miles to go, most of it in the open sea, I considered it necessary. The officers and crew deserve the greatest commendation for faithful and zealous work at this time, and their readiness to cheerfully leave personal effects."

The circumstances, other than those hereinafter mentioned, attending the loss of the *Charleston* were such as would, under the provisions of the act approved March 2, 1895, entitle the officers and crew to reimbursement for the loss of their personal effects.

That is the very act to which the gentleman has referred.

The Comptroller of the Treasury, in a decision dated January 22, 1901, held that as the *Charleston* was at the time of her loss engaged in cooperation with the land forces of the United States in the suppression of a local insurrection in the Philippine Islands, reimbursement for losses could not be made under the act by reason of its second proviso, "that this act shall not apply to losses sustained in time of war."

So that the act to which the gentleman has referred would not apply to this case; and there is no existing law under which these people can secure recompense for the losses of their effects. The only relief which the Secretary of the Navy has been able to give them was simply one month's pay.

Mr. PAYNE. Why does not the gentleman amend his bill so as simply to place these men under the general law—allowing them to make recovery under that law, notwithstanding the fact that they were engaged in war?

Mr. GRAFF. I am willing this bill should be so amended.

Mr. LOUD. How much has already been paid them?

Mr. GRAFF. Simply one month's pay. Recourse was had to that inadequate remedy simply because there was no existing law applying directly to the case and which would enable the Secretary of the Navy to recompense them for the loss of their personal effects. I have no doubt that the act of March 2, 1895, provides the same thing as is provided in this bill—that reimbursement shall be made only for things necessary in connection with the performance of their duty.

Mr. LOUD. Why should not that act apply to this case?

Mr. GRAFF. I am willing that it should.

Mr. LOUD. No one would object to that.

Mr. BUTLER of Pennsylvania. I understood the gentleman from California to say that the act was passed at the time he was a member of the Committee on Claims.

Mr. LOUD. Does it make any difference whether "the gentleman from California" went off that committee in 1894 or in 1895? I do not think that is material.

Mr. BUTLER of Pennsylvania. I do not think it is either. We are simply making an effort to locate the act of Congress.

Mr. GRAFF. Let me read further from this letter of the late Secretary of the Navy:

As the bill follows the lines of the general law on the subject of losses, and is similar to the act of March 30, 1898, to reimburse the survivors of officers and crew of the *Maine* for losses incurred by them, the Department perceives no objection to the bill and commends it to the favorable consideration of the committee.

The Secretary of the Navy says in effect that this bill follows the lines of the general law on this subject.

Mr. LOUD. It does?

Mr. GRAFF. Yes.

Mr. LOUD. Was there not special relief in the case of the *Maine*?

Mr. GRAFF. Yes.

Mr. LOUD. Why should there have been special relief if it came under the general law?

Mr. GRAFF. The gentleman is attempting to confuse me.

Mr. LOUD. No, I do not want to do that.

Mr. GRAFF. The Secretary of the Navy makes two separate propositions. One of them is that this bill we are now considering was framed on the same basis as the general law.

Mr. LOUD. I think the Secretary is mistaken; that is all.

Mr. GRAFF. I presume he means that the method of adjudication of the amount of property to which they will be entitled to be considered is the same under the general law as in the bill we are considering. Then the Secretary of the Navy puts the second proposition, that the bill is framed exactly as was the bill which gave relief to the survivors of the *Maine*.

Mr. LOUD. It surely would not have required any bill, because there was no war. I do not think the Comptroller held there was a war at the time the *Maine* was blown up.

Mr. GRAFF. I do not know about that. The bill giving relief to the survivors of the *Maine* is not before us at the present time.

Mr. MADDOX. Will the gentleman yield for a question?

Mr. GRAFF. Yes.

Mr. MADDOX. I understand the gentleman that there has been only one month's pay given to these officers.

Mr. GRAFF. Yes.

Mr. MADDOX. They have not been supplied with it under the law referred to by the gentleman from California [Mr. LOUD].

Mr. GRAFF. No; and the Secretary of the Navy says this bill is practically the same as the general law with reference to the adjustment of the amount due to these officers and men.

Mr. Chairman, I move that the bill be laid aside with a favorable recommendation.

The CHAIRMAN. The question is on the amendment proposed by the committee.

The amendment was agreed to.

The CHAIRMAN. The question now is, Shall the bill as amended be laid aside with a favorable recommendation?

The bill as amended was laid aside to be reported to the House with a favorable recommendation.

WILLIAM R. WHEATON AND CHARLES H. CHAMBERLAIN.

The next business was the bill (H. R. 5113) for the relief of William R. Wheaton and Charles H. Chamberlain, of California. The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to William R. Wheaton, ex-register, \$64.37, and to Charles H. Chamberlain, ex-receiver, of the United States land office at San Francisco, Cal., \$108.50, for the amount of money by them paid for services of janitor for the United States land office at San Francisco, Cal., from July 1, 1877, to June 30, 1878, and for the amount of money by them paid for the rent of the United States land office at San Francisco, Cal., for the months of July, August, and September, 1877.

The CHAIRMAN. The question is, Shall the bill be laid aside with a favorable recommendation?

Mr. MADDOX. Mr. Chairman, that carries the large amount of \$64, and I think we would like to hear something about that. [Laughter.]

Mr. GRAFF. It is an explanation of man's inhumanity to man. This bill has evidently been thoroughly digested by our committee, there being 42 pages in the report.

Mr. PAYNE. I was about to suggest to the gentleman from Georgia that if he would read the report he would know all about it.

Mr. GRAFF. The report goes on as follows:

The Committee on Claims, to whom was referred the bill (H. R. 5113) for the relief of William R. Wheaton and Charles H. Chamberlain, of California, have had the same under consideration and respectfully submit the following report:

A similar bill was reported favorably by the Senate Committee on Public Lands in the Forty-ninth Congress; also by the same committee and by the Committee on Claims of the House in the Fiftieth Congress; and in the Fifty-first Congress a similar bill was twice passed by both Houses. In the first session it failed because of adjournment, and it was vetoed in the second session. The Senate passed the same notwithstanding the veto of the President, but Congress adjourned before the House could act upon the veto.

Mr. Chairman, I move that the bill be passed without prejudice.

The CHAIRMAN. Without objection, the bill just read by the Clerk will be passed without prejudice.

There was no objection.

GEORGE RUSHBERGER.

The next business was the bill (H. R. 6642) for the relief of George Rushberger.

The bill was read, as follows:

Be it enacted, etc., That the sum of \$5,000 be paid, out of any money in the Treasury of the United States not otherwise appropriated, to George Rushberger, of Johnstown, Pa., for discovering and capturing Santa Ana's money at Cerro Gordo, Mexico, 1847.

such a mistake as that that it is in honor bound to make it good, and I am sorry to hear any gentleman invoking harsh technicalities in behalf of the Government against a poor man who has been defrauded by an act of the Government.

Mr. MANN. Did this man ever call on the Government to defend his title?

Mr. WEEKS. Oh, yes; when the case was in the courts in Michigan. I so understand it.

Mr. MANN. Whom did he notify to defend his title?

Mr. WEEKS. I do not know about that. He had lawyers who were representing him at the time, and I suppose the Government was notified if such notice was required by law to be given.

Mr. MANN. Now, I do not want to ask the gentleman embarrassing questions, but I understand that he says that he does not know what the man paid for the land; he does not know how much taxes he paid, and he does not know whom he notified to defend his title—

Mr. WEEKS. Oh, I do know this, that this great Government accepted the man's homestead entry, and he made his improvements, and he paid the Government the fees, and so forth, which were required by law; that he went on and completed his homestead entry and the Government gave him a patent, and relying on that he went to much expense in building and clearing and fencing, and did a great amount of labor on the land.

Mr. MANN. Does not the gentleman know that the Government of the United States does not guarantee a title when it issues a patent upon homesteads, and that it is a constant matter of litigation as to who the owner of those titles is.

Mr. WEEKS. I know that the Government of the United States does a great many things which it ought not to do toward creditors and claimants. I know that.

Mr. MANN. Well, the proposition to pay this bill is one of them.

Mr. WEEKS. Three years' experience on the Committee on Claims has demonstrated that fact to my satisfaction, and most thoroughly. This I consider as just a claim as—

Mr. MANN. Who did own this land at the time the patent was issued?

Mr. WEEKS. At the time the patent was issued to Donohue the title was in the United States.

Mr. MANN. And the United States granted a patent to it.

Mr. WEEKS. Yes; and afterwards it granted title to the State of Michigan, long after it had patented to John Donohue.

Mr. LACEY. Under what law in the State of Michigan?

Mr. WEEKS. Under a swamp-land grant of Congress, not under a law of the State of Michigan.

Mr. LACEY. The State got it under a swamp-land grant?

Mr. WEEKS. Some time about 1855, if I remember correctly.

Mr. LACEY. Then the State of Michigan really robbed this man of his land?

Mr. WEEKS. No; the Government deeded it to the State.

Mr. LACEY. Why did not the State of Michigan make it good to him?

Mr. WEEKS. The State of Michigan not knowing of the previous grant granted it to another person and that grantee ousted the grantee of the United States.

Mr. MANN. Does the gentleman say that after the patent had been issued the Government conveyed the land to the State of Michigan?

Mr. WEEKS. Yes.

Mr. MANN. Is it not a fact that it gave the State of Michigan authority to select swamp lands which had not been conveyed by the Government, and that the State of Michigan located on this land, and the supreme court of Michigan, violating any idea of law, decided that the Michigander obtaining from the State of Michigan was more entitled than the other man, and you want the Government of the United States to make good to him.

Mr. WEEKS. If the gentleman will permit me, the case was tried by lawyers in Michigan, quite as able as is the gentleman from Illinois, and the supreme court of Michigan understood the law perhaps quite as well as the gentleman from Illinois.

Mr. MANN. "The gentleman from Illinois" does not pretend to understand the law. Would the gentleman consent to an amendment providing that the State of Michigan shall pay this claim?

Mr. WEEKS. No; I would not. [Laughter.]

Mr. GRAFF. Mr. Chairman, I move that the bill be laid aside with a favorable recommendation.

Mr. MANN. Mr. Chairman, I move to strike out the enacting clause.

The CHAIRMAN. The question is on the amendment of the gentleman from Illinois, to strike out the enacting clause.

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. WEEKS. I call for a division on that.

The committee divided; and there were—ayes 34, noes 17.

So the enacting clause was stricken out.

Mr. GRAFF. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. HOPKINS, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration sundry bills and had directed him to report the same back to the House, some with amendments, with the recommendation that the amendments be agreed to, and some without amendments, with the recommendation that the bills as amended and those reported without amendments be passed. The committee had also directed him to report back to the House the bill H. R. 6652 and the bill H. R. 10142 with the enacting clause stricken out.

The SPEAKER. The first question is on the recommendation of the Committee of the Whole striking out the enacting clause in the bill H. R. 6652.

The question was taken, and the motion was agreed to.

The SPEAKER. The question now is on the amendment recommended by the Committee of the Whole to strike out the enacting clause of the bill H. R. 10142.

The question was taken, and the motion was agreed to.

HOUSE BILLS WITHOUT AMENDMENT PASSED.

The following bills, reported back from the Committee of the Whole House without amendments, were severally ordered to be engrossed for a third reading; and being engrossed, were accordingly read the third time, and passed:

H. R. 2492. A bill to reimburse the Meller Foundry and Machine Company for money retained by the United States for failure to complete a contract within a specified time;

H. R. 367. A bill for the relief of Angus A. McPhee;

H. R. 1360. A bill for the relief of W. J. Tapp & Co.;

H. R. 10279. A bill to pay the claim of Stephen B. Halsey;

H. R. 6703. A bill for the relief of George A. Rogers;

H. R. 1733. A bill for the relief of John A. Mason;

H. R. 6443. A bill for the relief of Patrick Nolan;

H. R. 11591. A bill for relief of Stanley & Patterson, and to authorize a pay director of the United States Navy to issue a duplicate check;

H. R. 11273. A bill to pay F. Y. Ramsay, heir at law and distributee of the late Joseph Ramsay, \$430.42 for balance due the said Joseph Ramsay as collector of customs and superintendent of lights in the district of Plymouth, N. C.;

H. R. 9867. A bill for the relief of the estate of Henry C. Nields, deceased;

H. R. 4636. A bill to authorize the Secretary of the Treasury to adjust the accounts of Morgan's Louisiana and Texas Railroad and Steamship Company for transporting the United States mails; and

H. R. 10775. A bill for the relief of Charles E. Sapp.

BRITISH SHIP FOSCOLIA.

The next business reported from the Committee of the Whole was the bill (H. R. 5124) for the relief of the owners of the British ship *Foscolia* and cargo.

Mr. GRAFF. Mr. Speaker, there is a Senate bill, and I ask unanimous consent to substitute the Senate bill for the House bill.

The SPEAKER. The gentleman asks unanimous consent to substitute the Senate bill for the House bill. Is there objection? [After a pause.] The Chair hears none.

The Clerk reported the Senate bill 173, for the relief of the owners of the British ship *Foscolia* and cargo; which was ordered to a third reading, and it was accordingly read the third time, and passed.

House bill 5124 was ordered to lie on the table.

HOUSE BILLS WITH AMENDMENTS PASSED.

On the following House bills, reported from the Committee of the Whole with amendments, the amendments were severally considered and agreed to, the bills as amended were ordered to be engrossed for a third reading; and being engrossed, they were accordingly read the third time, and passed:

H. R. 989. A bill to authorize the Light-House Board to pay to Chamblin, Delaney & Scott the sum of \$2,125 (title amended);

H. R. 9597. A bill for the relief of Thierman & Frost; and

H. R. 807. A bill for the relief of F. R. Lauson (title amended).

RELIEF OF OFFICERS AND CREW OF U. S. S. CHARLESTON.

The next business reported from the Committee of the Whole was the bill (H. R. 5756) for the relief of the officers and crew of the United States steamer *Charleston*, lost in the Philippine Islands, November 2, 1899.

Mr. LOUD. Mr. Speaker, I offer an additional amendment to the bill, which is accepted by the chairman of the committee.

The SPEAKER. The Clerk will report the amendment. The Clerk read as follows:

On page 2 strike out lines 10, 11, and 12, down to and including the word "incurred," and insert: "Value of such articles of personal property as were required by the United States naval regulations in force at the time of such loss."

The SPEAKER. The first question is on agreeing to the committee amendment.

The question was taken, and the amendment recommended by the committee was agreed to.

The SPEAKER. The question is now on the amendment offered by the gentleman from California.

The question was taken, and the amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

On motion of Mr. GRAFF, a motion to reconsider the various votes by which the several bills were passed was laid on the table.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. FOSTER, for four days, on account of important business.

Mr. PAYNE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; and accordingly (at 5 o'clock and 32 minutes p. m.) the House adjourned.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred as follows:

A letter from the Secretary of War, transmitting results of preliminary examinations and surveys of sites for military posts—to the Committee on Military Affairs, and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a communication from the Secretary of the Interior submitting an estimate of deficiency appropriation for surveying Fort Buford abandoned military reservation—to the Committee on Appropriations, and ordered to be printed.

A letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings filed by the court in the case of Hugh P. Alkin, administrator of estate of Hugh B. Porter against the United States—to the Committee on War Claims, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. LANHAM, from the Committee on the Judiciary, to which was referred the bill of the House (H. R. 14411) to regulate commutation for good conduct for United States prisoners, reported the same with amendment, accompanied by a report (No. 2145); which said bill and report were referred to the House Calendar.

Mr. JETT, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 9360) for the improvement and care of Confederate Mound, in Oak Woods Cemetery, Chicago, Ill., and making an appropriation therefor, reported the same without amendment, accompanied by a report (No. 2155); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. COOPER of Wisconsin, from the Committee on Insular Affairs, to which was referred the bill of the House (H. R. 14083) to amend an act entitled "An act temporarily to provide revenues and a civil government for Porto Rico, and for other purposes," approved April 12, 1900, and to provide for a Delegate to the House of Representatives of the United States from Porto Rico, reported the same with amendments, accompanied by a report (No. 2158); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. KLEBERG, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 11711) granting an increase of pension to Isaac Gibson, reported the same without amendment, accompanied by a report (No. 2118); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 13684) granting an increase of pension to Charles F. Wright, reported the same with amendment, accompanied by a report (No. 2119); which said bill and report were referred to the Private Calendar.

Mr. GIBSON, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 5480) granting a pension to John C. Nelson, reported the same with amendments, accompanied by a report (No. 2120); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 13505) granting an increase of pension to William F. Stanley, reported the same without amendment, accompanied by a report (No. 2121); which said bill and report were referred to the Private Calendar.

Mr. CALDERHEAD, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 12410) granting an increase of pension to Mary Nichols, reported the same with amendment, accompanied by a report (No. 2122); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 10856) granting a pension to Jacob Findley, reported the same without amendment, accompanied by a report (No. 2123); which said bill and report were referred to the Private Calendar.

Mr. MIERS of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 12326) granting an increase of pension to John Kirkham, reported the same with amendments, accompanied by a report (No. 2124); which said bill and report were referred to the Private Calendar.

Mr. KLEBERG, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 14374) granting a pension to Samantha Towner, reported the same with amendments, accompanied by a report (No. 2125); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 11252) granting an increase of pension to Edwin M. Gowdey, reported the same without amendment, accompanied by a report (No. 2126); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 10824) granting an increase of pension to George E. Bump, reported the same with amendments, accompanied by a report (No. 2127); which said bill and report were referred to the Private Calendar.

Mr. CALDERHEAD, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 12507) granting an increase of pension to Ebenezer W. Oakley, reported the same with amendment, accompanied by a report (No. 2128); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 6186) granting a pension to Carrie B. Farnham, reported the same with amendment, accompanied by a report (No. 2129); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 14241) granting an increase of pension to Peter Dugan, reported the same with amendments, accompanied by a report (No. 2130); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 13450) granting an increase of pension to Henry F. Hunt, reported the same with amendments, accompanied by a report (No. 2131); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 13052) granting an increase of pension to Charles K. Batey, reported the same with amendments, accompanied by a report (No. 2132); which said bill and report were referred to the Private Calendar.

Mr. KLEBERG, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 13665) granting an increase of pension to George R. Baldwin, reported the same with amendments, accompanied by a report (No. 2133); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 3986) granting a pension to Martha A. Cornish, reported the same with amendment, accompanied by a report (No. 2134); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 14184) granting an increase of pension to Andrew J. Fogg, reported the same with amendment, accompanied by a report (No. 2135); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the

bill of the Senate (S. 2457) granting an increase of pension to Warren Y. Merchant, reported the same without amendment, accompanied by a report (No. 2136); which said bill and report were referred to the Private Calendar.

Mr. CALDERHEAD, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 5209) granting an increase of pension to Hannah A. Van Eaton, reported the same without amendment, accompanied by a report (No. 2137); which said bill and report were referred to the Private Calendar.

Mr. MIERS of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 3551) granting an increase of pension to John P. Collier, reported the same without amendment, accompanied by a report (No. 2138); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 4240) granting an increase of pension to Calvin N. Perkins, reported the same without amendment, accompanied by a report (No. 2139); which said bill and report were referred to the Private Calendar.

Mr. CALDERHEAD, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 712) granting an increase of pension to John Housiaux, reported the same without amendment, accompanied by a report (No. 2140); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 4759) granting an increase of pension to Martha Clark, reported the same without amendment, accompanied by a report (No. 2141); which said bill and report were referred to the Private Calendar.

Mr. MIERS of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4638) granting a pension to Helena Sudsbury, reported the same without amendment, accompanied by a report (No. 2142); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 3063) granting an increase of pension to Henry J. Edge, alias Jason Edge, reported the same without amendment, accompanied by a report (No. 2143); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 11374) granting an increase of pension to William McCord, reported the same without amendment, accompanied by a report (No. 2146); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 13886) granting an increase of pension to Henry Rogers, reported the same with amendment, accompanied by a report (No. 2147); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 5759) granting an increase of pension to Charles T. Crooker, reported the same without amendment, accompanied by a report (No. 2148); which said bill and report was referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 5669) granting a pension to Charlotte M. Howe, reported the same without amendment, accompanied by a report (No. 2149); which said bill and report were referred to the Private Calendar.

Mr. MIERS of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 4642) granting an increase of pension to Anne Dowery, reported the same without amendment, accompanied by a report (No. 2150); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the Senate (S. 2535) granting an increase of pension to Annie E. Joseph, reported the same without amendment, accompanied by a report (No. 2151); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the Senate (S. 5670) granting a pension to Samuel H. Chamberlin, reported the same without amendment, accompanied by a report (No. 2152); which said bill and report were referred to the Private Calendar.

Mr. SULZER, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 11879) to correct military record of Michael Mullet, reported the same with amendment, accompanied by a report (No. 2153); which said bill and report were referred to the Private Calendar.

Mr. REID, from the Committee on Claims, to which was referred the bill of the House (H. R. 11340) for the relief of McClure & Willbanks, reported the same without amendment, accompanied by a report (No. 2156); which said bill and report were referred to the Private Calendar.

Mr. STEVENS of Minnesota, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 11878)

to correct the military record of Carl W. Albrecht, reported the same without amendment, accompanied by a report (No. 2157); which said bill and report were referred to the Private Calendar.

ADVERSE REPORTS.

Under clause 2, Rule XIII, Mr. HULL, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 7655) to provide for the construction of a submarine tunnel under the bay of San Francisco, with air shafts and openings on the United States military reservation on Yerba Buena Island (Goat Island), bay of San Francisco, Cal., reported the same adversely, accompanied by a report (No. 2154); which said bill and report were laid on the table.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of bills of the following titles; which were thereupon referred as follows:

A bill (H. R. 5068) granting a pension to Nelson L. Belle-Isle—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 5084) granting a pension to Emma L. Ferrier—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. BURKETT: A bill (H. R. 14590) to authorize the construction of a pontoon bridge across the Missouri River, in the county of Sarpy, in the State of Nebraska, and the county of Mills, in the State of Iowa—to the Committee on Interstate and Foreign Commerce.

By Mr. JENKINS: A joint resolution (H. J. Res. 193) to permit the erection and use for lighting purposes of overhead electric wires outside of the fire limits, east of Rock Creek, District of Columbia—to the Committee on the District of Columbia.

By Mr. HEATWOLE: A resolution (H. Res. 264) for the printing of 2,600 copies of the Digest and Manual of the Rules and Practice of the House of Representatives for the second session Fifty-seventh Congress—to the Committee on Printing.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. BURKETT: A bill (H. R. 14591) granting an increase of pension to Adam Bax—to the Committee on Invalid Pensions.

By Mr. CLARK: A bill (H. R. 14592) granting a pension to Benjamin F. Barrett—to the Committee on Invalid Pensions.

By Mr. CONNELL: A bill (H. R. 14593) granting an increase of pension to James J. Daugher—to the Committee on Pensions.

By Mr. CONRY: A bill (H. R. 14594) granting an increase of pension to Francis White—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14595) granting an increase of pension to Frank Lovely—to the Committee on Invalid Pensions.

By Mr. COOPER of Texas: A bill (H. R. 14596) for the relief of the legal representatives of Sarah J. Montgomery, deceased—to the Committee on War Claims.

Also, a bill (H. R. 14597) granting a pension to Margaret Welch—to the Committee on Invalid Pensions.

By Mr. COOPER of Wisconsin: A bill (H. R. 14598) for the relief of William G. Keats—to the Committee on War Claims.

Also, a bill (H. R. 14599) granting an increase of pension to William H. Vickers—to the Committee on Invalid Pensions.

By Mr. CORLISS: A bill (H. R. 14600) granting an increase of pension to Anthony Walich—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14601) granting an increase of pension to Carl Engel—to the Committee on Invalid Pensions.

By Mr. DALZELL: A bill (H. R. 14602) to remove the charge of desertion from the military record of John Lawton—to the Committee on Military Affairs.

By Mr. FORDNEY: A bill (H. R. 14603) granting a pension to Anna Armstrong—to the Committee on Invalid Pensions.

By Mr. KLEBERG: A bill (H. R. 14604) granting an increase of pension to Asa C. Hill—to the Committee on Pensions.

By Mr. KYLE: A bill (H. R. 14605) granting an increase of pension to John T. Knoop—to the Committee on Invalid Pensions.

By Mr. MAYNARD: A bill (H. R. 14606) for the relief of William Edward Bailey—to the Committee on Claims.

By Mr. PADGETT: A bill (H. R. 14607) for the relief of Clifton Lodge, No. 173, Free and Accepted Masons—to the Committee on War Claims.

By Mr. REEDER: A bill (H. R. 14608) granting an increase of pension to Philo S. Darling—to the Committee on Invalid Pensions.

By Mr. ROBINSON of Nebraska: A bill (H. R. 14609) granting a pension to Andrew Anderson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14610) granting an increase of pension to George Thomas Eberly—to the Committee on Invalid Pensions.

By Mr. SHACKLEFORD: A bill (H. R. 14611) granting a pension to Edward D. Lockwood—to the Committee on Invalid Pensions.

By Mr. SHOWALTER: A bill (H. R. 14612) granting an increase of pension to Findley Brandon—to the Committee on Invalid Pensions.

By Mr. SMALL: A bill (H. R. 14613) granting an increase of pension to Alpheus W. Simpson—to the Committee on Invalid Pensions.

By Mr. WACHTER: A bill (H. R. 14614) to remove the charge of desertion from the record of Henry East—to the Committee on Military Affairs.

Also, a bill (H. R. 14615) granting a pension to Augustus A. Rhodrick—to the Committee on Invalid Pensions.

By Mr. WARNOCK: A bill (H. R. 14616) granting an increase of pension to Marion P. Downey—to the Committee on Invalid Pensions.

By Mr. WILLIAMS of Illinois: A bill (H. R. 14617) granting an increase of pension to George W. Painter—to the Committee on Invalid Pensions.

By Mr. ZENOR: A bill (H. R. 14618) granting a pension to Philo Lynch—to the Committee on Invalid Pensions.

By Mr. DINSMORE: A bill (H. R. 14619) granting a pension to Lizzie C. Casey—to the Committee on Pensions.

By Mr. ROBERTS: A bill (H. R. 14620) granting an increase of pension to Samuel F. Oliver—to the Committee on Invalid Pensions.

By Mr. WILLIAMS of Illinois: A bill (H. R. 14621) to remove the charge of desertion from the record of William Ridge—to the Committee on Military Affairs.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ALLEN of Kentucky: Resolutions of United Mine Workers' Unions No. 1749, of Dawson Springs; No. 630, of Island, and No. 1173, of Adair, Ky., favoring the restriction of the immigration of cheap labor from the south and east of Europe—to the Committee on Immigration and Naturalization.

By Mr. CONRY: Resolutions of the Boston Marine Society, in favor of legislation against "outside towing" for barges, etc.—to the Committee on Rivers and Harbors.

Also, resolutions of the same society, in favor of legislation to pension the members of the Life-Saving Service—to the Committee on Interstate and Foreign Commerce.

By Mr. COOPER of Texas: Paper to accompany House bill 14597, granting a pension to Margaret Welch—to the Committee on Invalid Pensions.

By Mr. COOPER of Wisconsin: Resolutions of Rock River Lodge, Janesville, Wis., Brotherhood of Railroad Trainmen, favoring an educational qualification for immigrants—to the Committee on Immigration and Naturalization.

By Mr. CREAMER: Resolutions of the New Century Study Circle of the City of New York, indorsing House bill 6279, to increase the pay of letter carriers—to the Committee on the Post-Office and Post-Roads.

By Mr. DALZELL: Paper to accompany House bill 14602, to amend the military record of John Lawton—to the Committee on Military Affairs.

By Mr. DINSMORE: Petition of George A. Rawlins, for a pension—to the Committee on Invalid Pensions.

By Mr. FITZGERALD: Resolutions of the National Business League of Chicago, for the establishment of a department of commerce and labor—to the Committee on Interstate and Foreign Commerce.

Also, resolutions of Citizens' Union of the Twentieth assembly district of Kings County, N. Y., favoring the passage of House bill 6279, to increase the pay of letter carriers—to the Committee on the Post-Office and Post-Roads.

By Mr. FOERDERER: Petitions of United Mine Workers' Unions, Nos. 1049, 1535, and 1725, of Shamokin; No. 1599, of Larberry, and No. 453, of Germantown, Philadelphia, Pa., favoring the prohibition of immigrants other than wives and children who can not read—to the Committee on Immigration and Naturalization.

By Mr. FOSS: Resolution of the city council of Evanston, Ill., urging the passage of House bill 163, to pension employees and dependents of Life-Saving Service—to the Committee on Interstate and Foreign Commerce.

By Mr. HEMENWAY: Resolutions of United Mine Workers' Union No. 1634, of Petersburg, Ind., favoring an educational qualification for immigrants—to the Committee on Immigration and Naturalization.

By Mr. HEPBURN: Resolutions of Iowa Retail Grocers' Association asking for the repeal or amendment of the bankruptcy law—to the Committee on the Judiciary.

By Mr. McCALL: Petition of the Marine Society, of Boston, Mass., in favor of a law to prohibit barge towing—to the Committee on Rivers and Harbors.

Also, Resolutions of the common council of Boston, Mass., indorsing House bill 6279, to increase the pay of letter carriers—to the Committee on the Post-Office and Post-Roads.

Also, petition of citizens of Massachusetts protesting against the taking of the lands of the Sioux Indians—to the Committee on Indian Affairs.

Also, petition of the Marine Society of Boston in favor of a law to pension men of Life-Saving Service—to the Committee on Interstate and Foreign Commerce.

By Mr. MERCER: Papers to accompany House bill No. 14493 granting a pension to Marvin H. Thomas—to the Committee on Invalid Pensions.

By Mr. NEEDHAM: Papers to accompany House bill 14559, granting a pension to Jonathan Rea—to the Committee on Pensions.

By Mr. PERKINS: Petition of John W. Thompson and other citizens of Rochester, N. Y., favoring Senate bill 5002 and House bill 12940, designated as the inquiry commission bill—to the Committee on Labor.

By Mr. ROBINSON of Nebraska: Papers to accompany House bill granting a pension to George Thomas Eberly—to the Committee on Invalid Pensions.

By Mr. RUSSELL: Resolution of the Chamber of Commerce of New Haven, Conn., approving of House bill 8337 and Senate bill 3575, amending an act to regulate commerce—to the Committee on Interstate and Foreign Commerce.

By Mr. WM. ALDEN SMITH: Resolutions of the Board of Trade of Grand Rapids, Mich., favoring a reorganization of the consular service—to the Committee on Foreign Affairs.

By Mr. WACHTER: Paper to accompany House bill granting a pension to Augustus A. Rhodrick—to the Committee on Invalid Pensions.

By Mr. WARNOCK: Papers to accompany House bill granting a pension to Marion P. Downey—to the Committee on Invalid Pensions.

By Mr. WILLIAMS of Illinois: Paper to accompany House bill granting a pension to George W. Painter—to the Committee on Invalid Pensions.

Also, paper to accompany House bill for the relief of William Ridge—to the Committee on Military Affairs.

By Mr. WOODS: Resolution of the Chamber of Commerce of San Francisco, Cal., urging the passage of House bill 163, to pension employees and dependents of Life-Saving Service—to the Committee on Interstate and Foreign Commerce.

SENATE.

WEDNESDAY, May 21, 1902.

Prayer by Rev. F. J. PRETTYMAN, of the city of Washington.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. GALLINGER and by unanimous consent, the further reading was dispensed with.

STATUE OF MARSHAL DE ROCHAMBEAU.

The PRESIDING OFFICER (Mr. PLATT of Connecticut). The Chair lays before the Senate a communication from the Secretary of State, addressed to the President pro tempore, which will be read.

The Secretary read the communication, as follows:

WASHINGTON, D. C., May 17, 1902.

HON. WILLIAM P. FRYE,
President pro tempore United States Senate.

SIR: The undersigned, to whom was committed, by the act of Congress approved February 14, 1902, the selection of a site and the supervision of the erection thereon of a statue of Marshal de Rochambeau, commander in chief of the French forces in America during the war of Independence, and of the unveiling of said statue, respectfully report that they have discharged the duty imposed upon them; that the site selected is the southwest corner of Lafayette square, where the pedestal has been erected, and that on the 24th day of May, instant, at 11 o'clock a. m., the statue of Marshal de Rochambeau will be unveiled with appropriate ceremonial, Senator HENRY C. LODGE delivering the address. Seats have been reserved for the Senators and Representatives in Congress.

We remain, sir, very respectfully, yours,

JOHN HAY, Secretary of State.
ELIHU ROOT, Secretary of War.
GEO. PEABODY WETMORE,
Chairman Committee on the Library, Senate.
J. T. McCLEARY,
Chairman Committee on the Library, House.